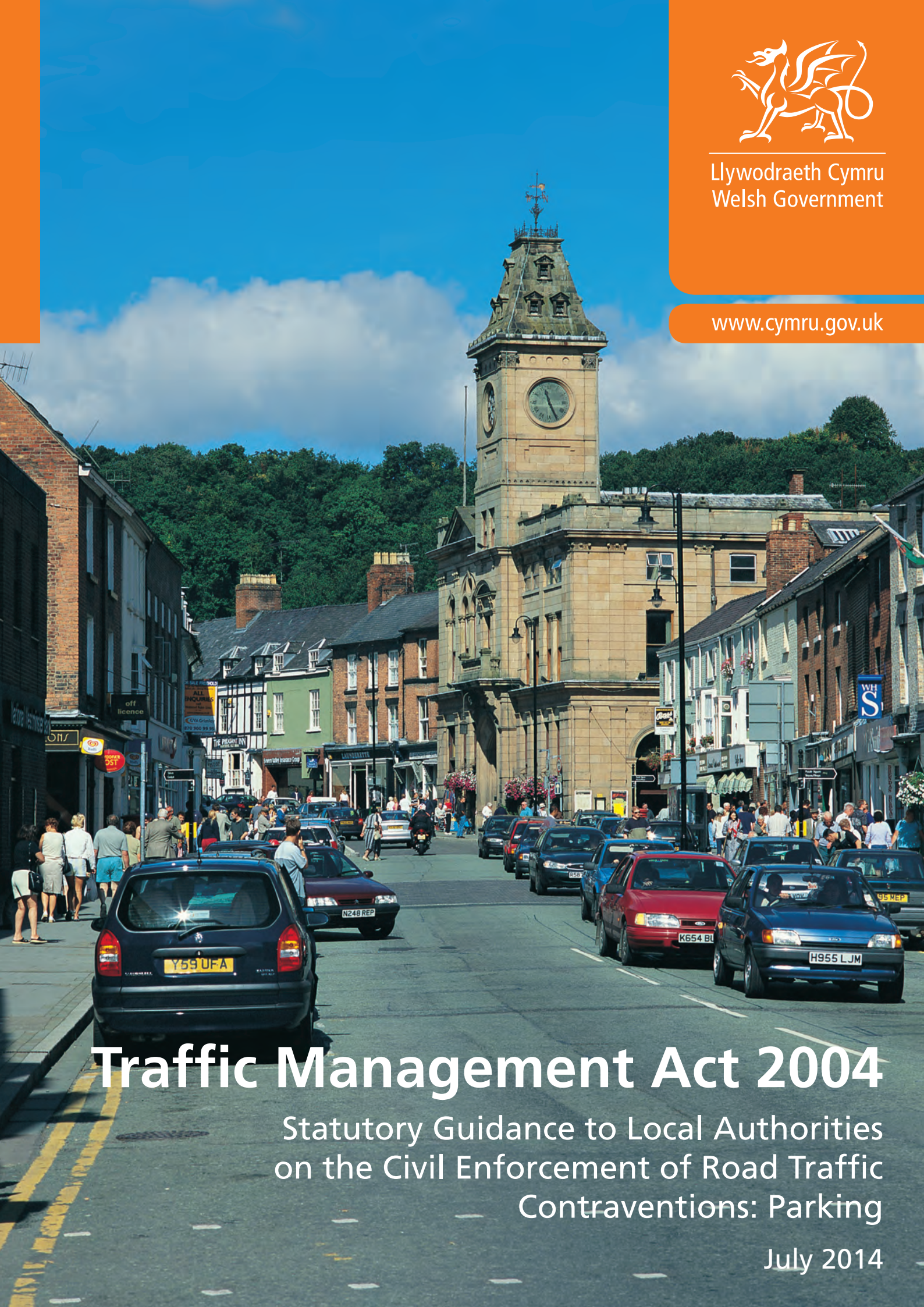




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Traffic Management Act 2004

Statutory Guidance to Local Authorities
on the Civil Enforcement of Road Traffic
Contraventions: Parking

July 2014

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GENERAL INTRODUCTION

1. This Guidance explains how to operate civil parking enforcement (CPE) and covers the setting of charges, techniques of enforcement, the exercise of discretion and the consideration of challenges, representations and appeals.
2. The emphasis is on transparency and clarity of information for road users. The Guidance says that authorities should publish their policies and reports; foster a more professional approach by providing dedicated training for everyone involved in administering civil parking enforcement from on the street right up to the boardroom; regularly review parking policies in consultation with stakeholders and communicate those policies effectively to the public.
3. Comprehensive footnotes give references to the relevant parts of the legislation. Read alongside the Regulations, and more detailed Operational Guidance, the information in this Statutory Guidance will help strengthen the parking enforcement system, and therefore tackle congestion, keep traffic moving and provide a fairer system for all.
4. The Wales Transport Strategy “Connecting Wales” emphasises that demand management measures have a key role to play in increasing the attractiveness of more sustainable modes of travel. Parking regulations and the effective enforcement of them can act as a major deterrent to car use and thus encourage more sustainable travel choices. It is recommended that plans for the introduction of CPE powers should form a component of the local authority transport plans.

Section 1: INTRODUCTION & LEGAL BASIS

5. This Statutory Guidance is published by Welsh Ministers under section 87 of the Traffic Management Act 2004 (TMA).
6. Section 76(3) of the TMA specifies that guidelines on uniforms may be issued by the appropriate authority. This document incorporates those guidelines that apply to the wearing of uniforms.
7. It sets out the policy framework for CPE. It explains how to approach, carry out and review parking enforcement. It attempts to strike the balance between:
 - as much national consistency as possible, while allowing parking policies to suit local circumstances, and
 - a system that is fair to the motorist, but also effective in enforcing parking regulations.

8. All enforcement authorities¹ in Wales must have regard to this Guidance in conjunction with the Regulations that give effect to the civil enforcement provisions in Part 6 of the Traffic Management Act 2004².

9. The Guidance has no special authority in regard to matters of legal interpretation. Where there appear to be differences between the Regulations and the Guidance, the Regulations always take precedence.

10. Where the Guidance says that something **must** be done, this means that it is a requirement in either primary or secondary legislation, and a footnote gives the appropriate provision.

11. This Guidance uses the same terminology as the TMA, so it refers to:

- *Civil Parking Enforcement* (CPE) rather than *Decriminalised Parking Enforcement* (DPE);
- *Civil Enforcement Officer* (CEO) rather than *Parking Attendant* (PA); and
- *Civil Enforcement Area* (CEA) rather than *Special Parking Area / Permitted Parking Area* (SPA/PPA)³.

12. This Guidance applies to all enforcement authorities in Wales exercising CPE powers conferred on them by or under the TMA.

13. Section 87 of the TMA provides that authorities **must** have regard to this Statutory Guidance when exercising their functions. These functions include developing, implementing and reviewing their CPE regimes. This Guidance should also be read in conjunction with the more detailed Operational Guidance (the replacement for Welsh Office Circular 26/95). The Statutory Guidance sets out the regulatory framework for how CPE should be operated which is then given greater depth in the Operational Guidance.

14. CPE is a legal process. Enforcement authorities should make sure that their employees and any contractors who operate CPE regimes have a clear and full understanding of what the law requires. If enforcement authorities are

¹ Traffic Management Act 2004: Paragraph 8(5) of Schedule 8.

² Traffic Management Act 2004: Sections 72 – 93 and Schedules 7 – 12. The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 [S.I. 2013/362]; The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013 [S.I. 2013/359]; The Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013 [S.I. 2013/360]; The Civil Enforcement Officers (Wearing of Uniforms) (Wales) Regulations 2008 [S.I. 2008/616]; The Removal and Disposal of Vehicles Regulations 1986 (S.I. 1986/183. As amended by the Removal and Disposal of Vehicles (Amendment) (Wales) Regulations 2014 [S.I. 2014/1388]; The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013 [S.I. 2013/361] and The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013 [S.I.2013/1969].

³ Areas which were, immediately before 31 March 2008, designated as PPAs or SPAs automatically become CEAs on that date (Traffic Management Act 2004: paragraph 8(4) of Schedule 8).

themselves uncertain about any aspects of these requirements, they should obtain appropriate legal advice.

Section 2: OBJECTIVES OF CPE

(i) CPE policy objectives

15. CPE should contribute to the authority's wider transport objectives. A good CPE regime is one that uses quality-based standards that the public understands, and which are enforced fairly, accurately and expeditiously.

16. Enforcement authorities should aim to increase compliance with parking regulations through clear, well-designed, legally enforced parking controls. CPE provides a means by which an authority can effectively deliver wider transport strategies and objectives. Enforcement authorities should not view CPE in isolation or as a way of raising revenue.

17. Enforcement authorities should design their parking policies with particular regard to:

- managing the traffic network to ensure expeditious movement of traffic, (including pedestrians and cyclists), as required under the TMA Network Management Duty⁴;
- improving road safety;
- improving the local environment;
- improving the quality and accessibility of public transport;
- meeting the needs of people with disabilities, some of whom will be unable to use public transport and are dependent entirely on the use of a car; and
- managing and reconciling the competing demands for kerb space.

(ii) CPE financial objectives

18. For good governance, enforcement authorities need to forecast revenue in advance. But raising revenue should not be an objective of CPE, nor should authorities set targets for revenue or the number of Penalty Charge Notices (PCNs) they issue.

19. Enforcement authorities should run their CPE operations (both on and offstreet⁵) efficiently, effectively and economically. The purpose of penalty charges is to dissuade motorists from breaking parking regulations. The objective of CPE should be for 100% compliance, with no penalty charges. Parking charges and penalty charges should be proportionate, so it is Welsh

⁴ Section 16 of the TMA 2004.

⁵ CPE only applies to local authority owned car parks and not privately owned ones, unless the latter are regulated by an Order made under section 35 of the RTRA 1984 and run by a private company on behalf of the local authority.

Government's view that authorities should not set them at unreasonable levels. When authorities receive penalty charge payments they **must** use them in accordance with section 55 (as amended) of the Road Traffic Regulation Act 1984.

20. Previous guidance said that local authority parking enforcement should be self-financing as soon as practicable. This is still a sensible aim, but compliant applications for CPE (see next section) will be granted without the scheme being self-financing. However, authorities will need to bear in mind that if their scheme is not self-financing, then they need to be certain that they can afford to pay for it from within existing funding. Welsh Ministers do not expect either national or local taxpayers to meet any deficit.

Section 3: ISSUES TO CONSIDER BEFORE APPLYING FOR CPE POWERS

21. The detailed Operational Guidance sets out how an enforcement authority can apply for designation as a CPE area⁶. The key criteria on which Welsh Ministers will be need to be satisfied are that:

- the authority has reviewed its existing parking policies and analysed how CPE will contribute to overall transport objectives;
- the authority has consulted as appropriate and taken account of any views in finalising the application;
- proposed penalty charges are proportionate to the scale of the traffic management issues facing the enforcement authority;
- there is consistency with neighbouring schemes so that motorists and others affected can understand how it works, and
- all Traffic Regulation Orders (TROs), traffic signs and road markings are in compliance with legal requirements and the traffic signs and road markings are consonant with the orders.

22. Before making an application for CPE designation to Welsh Ministers, it is recommended that the authority consult:

- other traffic authorities who may be affected;
- the emergency services;
- the DVLA;
- the adjudication service, and
- the Traffic Enforcement Centre at Northampton County Court.

⁶ In Schedule 8 to the TMA 2004 this is referred to as a "Civil Enforcement Area for Parking Contraventions".

23. The TMA enables authorities with CPE power to enforce in a Special Enforcement Area (SEA)⁷ prohibitions of double parking⁸ and parking at dropped footways⁹ as if they had been introduced using a Traffic Regulations Order. An SEA must be within a CEA or cover the same area as one. An authority should consider whether to apply for SEA designation as part of their CEA application. If they do, they will have to apply under Schedule 10 paragraph 3 (1) – (4) asking Welsh Ministers to designate the relevant part of their area as an SEA.

24. Any Special Parking Area that existed before commencement of the TMA 2004 automatically becomes an SEA¹⁰ but authorities should make sure that the public are aware of the new restrictions before starting enforcement.

Section 4: SETTING CHARGES

25. The primary purpose of penalty charges is to encourage compliance with parking regulations. In pursuit of this, enforcement authorities should adopt the lowest charge level consistent with a high level of public acceptability and compliance. The enforcement authority **must**¹¹ ensure that the public knows what charge levels have been set by publishing them well in advance of their introduction. They **must** also publish any subsequent change to the charge levels¹². The charges **must** accord with guidelines set by Welsh Ministers¹³.

26. Parking in a place where it is always prohibited (such as on a red route, on double yellow lines, or in a disabled bay without displaying a valid badge) is considered more serious than overstaying where parking is permitted (e.g. in a parking place). There is a perceived unfairness of receiving the same penalty regardless of the seriousness of the contravention. For this reason, and in order to emphasise the traffic management purposes of CPE, enforcement authorities **must**¹⁴ in accordance with statutory guidelines, apply different parking penalties to different contraventions. The previous three-band system has been reduced to two, and the higher and lower penalty charges in these bands are specified in the The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013 (“The Guidelines Order”). The full list of contraventions is set out in the Operational Guidance. The Guidelines Order may be amended from time to time and enforcement authorities should check on the

⁷ Schedule 10 of the TMA 2004.

⁸ Section 85 of the TMA 2004.

⁹ Section 86 of the TMA 2004.

¹⁰ Paragraph 3(5) of Schedule 10 to the TMA 2004

¹¹ Paragraph 9 of Schedule 9 to the TMA 2004.

¹² Paragraph 9 of Schedule 9 to the TMA 2004.

¹³ Paragraph 8 of Schedule 9 to the TMA 2004 – see The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013

¹⁴ The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013

Welsh Assembly Government website www.wales.gov.uk that they are using the most up to date version.

27. Where an authority has to immobilise or remove a vehicle, the charges **must** accord with guidelines set by Welsh Ministers in the Guidelines Order. The charges should be set no higher than required to meet the reasonable costs of the immobilisation/removals procedure. They should not generate a surplus.

Section 5: COMMUNICATING CPE

28. It is important that the public understands why an authority has introduced CPE and what parking regulations are in place. Motorists and other road users need to be aware that parking enforcement is about supporting wider transport objectives, in particular keeping traffic moving, rather than raising revenue.

29. It is also important that motorists and other road users understand the details of the scheme. Unclear restrictions, or restrictions that do not comply with regulations or with the Guidance, will confuse people and ultimately undermine the operation and enforcement of the scheme overall. Once authorities have finalised their parking enforcement policies, it is recommended that they should publish and promote them openly and that regular communication should be maintained after CPE is introduced and thereafter when changes are made.

30. It is recommended that enforcement authorities consider the full range of media available to them when communicating with the public and that they should consider telling every household in the CEA when changes are proposed.

31. Enforcement authorities should also aim to communicate regularly with neighbouring authorities to ensure a consistent approach to communication across regions and not just local boundaries, in addition to enforcement.

Section 6: APPRAISING CPE

32. It is recommended that enforcement authorities monitor their parking policies, CPE regimes and associated regulatory framework (including penalty charge levels); appraising them when reviewing local authority transport plans to make sure they remain fit for purpose.

33. Appraisals should take account of any relevant information that has been collected as part of the parking enforcement process, in particular about the practical effectiveness of the scheme. They will benefit from interviews with CEOs, who are in a unique position to identify changes to parking patterns, and with office staff, who see challenges and representations and the reasoning for them.

34. It is recommended that enforcement authorities consult locally on their parking policies when they appraise them. They should seek the views of people and businesses with a range of different parking needs as well as taking into account the views of the police.

35. The appraisal should take account of:

- existing and predicted levels of demand for parking;
- the availability and pricing of on- and off-street parking places;
- the justification for, and accuracy of, existing traffic orders;
- the adequacy, accuracy and quality of traffic signing and road markings, which restrict or permit parking within or outside a Controlled Parking Zone (CPZ);
- the level of enforcement necessary for compliance;
- the levels of penalty charges;
- the need to resource the operation effectively and ensure that all parking staff are appropriately trained, and
- impact on traffic flow, i.e. traffic or congestion outcomes.

36. The appraisal should ensure that parking policies still apply at the right place and time. It is particularly important to check that the policies are properly underpinned by valid TROs that are up to date and properly indicated with traffic signs and road markings. A parking contravention is often a breach of a provision of a TRO, which **must** have been made under the correct section of the Road Traffic Regulation Act 1984 (RTRA)¹⁵. Flawed orders may be unenforceable, and can damage both the aims of CPE and the public perception of how it is managed.

Section 7: TRAINING AND PROFESSIONALISM IN CPE

37. Once a solid foundation of policies, legitimate TROs, and clear and lawful signs and lines are in place, the success of CPE will depend on the dedication and quality of the staff that deliver it. It is essential to give staff at all levels the skills and training needed to do their jobs effectively if the service is to command public confidence and respect. This should also improve the self esteem and job satisfaction of staff, resulting in higher retention rates. Training should be seen as a legitimate and important aspect of CPE running costs and should be protected from cuts where possible.

¹⁵ For a complete list of parking contraventions that are civilly enforceable see Schedule 7 to the Traffic Management Act 2004.

38. The office processes involved in CPE are important and staff carrying them out need similar levels of skill, training and professionalism as the more visible on-street enforcement officers. Enforcement authorities should provide enough staff for the level of work. They should also make sure that those staff (whether employed directly by the authority or by a contractor to deal with informal challenges) have the skills, training, authority and resources to give the public a high quality, professional, efficient, timely and user-friendly service.

39. Authorities that outsource any area of parking enforcement to private companies should ensure that the contractor fulfils all the requirements set down for the authority itself.

(i) Civil Enforcement Officers

40. CEOs are the public face of CPE and the way they perform their functions is crucial to the success, and public perception, of an authority's CPE operation. It is recommended that all CEOs achieve minimum standards through recognised training courses.

41. CEOs may be required to work near schools and similar sensitive areas and be seen as a uniformed figure of authority. It is recommended that an applicant for a job as a CEO undergoes a Disclosure and Barring Service (DBS).

42. The main objective of a CEO should be to ensure parking controls are observed and enforced in a fair, accurate and consistent manner. It is recommended that CEO duties also include related activities such as:

- inspecting parking equipment;
- checking and reporting defective traffic signs and road markings;
- issuing information leaflets or warning notices;
- providing witness statements, and
- where appropriate, appearing before a parking adjudicator.

43. If CEOs have the time available, the authority may wish to consider asking them to carry out tasks such as:

- informing the police of criminal parking activity;
- reporting suspected abandoned vehicles;
- reporting vehicles with no valid tax disc to the DVLA;
- putting in place and removing notices about the suspension of parking places;
- checking that shops selling parking vouchers have adequate stocks;
- reporting on changes in parking patterns;

- assisting with on-street enforcement surveys, and
- checking that non-mobile objects in parking places (for example, skips) are in compliance with the authority's licence.

44. It is important that these supplementary duties do not stop CEOs carrying out their principal duties and that the authority complies with the restrictions on the use of parking income set out in Section 55 (as amended) of the RTRA 1984.

(ii) Exercise of discretion

45. Welsh Ministers consider that the exercise of discretion should, in the main, rest with back office staff as part of considering challenges against PCNs and representations against any Notice to Owners (NtOs). This is to protect CEOs from allegations of inconsistency, favouritism or suspicion of bribery. It also gives greater consistency in the enforcement of traffic regulations.

46. However, the enforcement authority 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 authority. These policies should form the basis for staff training and should be published.

47. Enforcement authorities should ensure that CEOs are properly trained to enforce parking controls fairly, accurately and consistently. As well as formal training, it is recommended that authorities include some supervised on-street training to familiarise CEOs with the area and any special parking provisions. Enforcement authorities should make sure that CEOs understand all relevant exemptions, such as those applying to diplomatic vehicles and the Blue Badges issued to disabled people. CEOs should be aware of their powers to inspect Blue Badges¹⁶ and the sensitivity required should they need to exercise them.

Section 8: ON-STREET ACTIVITIES

48. When exercising prescribed functions¹⁷ a CEO **must**¹⁸ wear a uniform. The uniform should clearly show:

- that the wearer is engaged in parking enforcement;
- the name of the local authority/authorities on whose behalf the CEO is acting, and
- a personal identity number.

¹⁶ See section 21 Chronically Sick and Disabled Persons Act 1970

¹⁷ The Civil Enforcement Officers (Wearing of Uniforms) (Wales) Regulations 2008.

¹⁸ Section 76(3)(a) of the TMA 2004

49. It is recommended that CEOs carry a photo-identity card, showing their identification number and the name of their employer. However, to protect the safety of staff, it is strongly recommended that the photo-identity card does not include the CEO's name on it.

(i) Collecting evidence of contraventions

50. The local authority **must**¹⁹ provide evidence of the contravention either from a CEO's direct observation, or from the record of an approved device²⁰.

51. The PCN **must**²¹ either be fixed to the vehicle or given to the person who appears to be in charge of that vehicle, although the regulations allow for service by post in certain circumstances (see paragraph 53 below). The information that a PCN **must**²² contain is set out in the Regulations and varies in accordance with whether the PCN is served by a CEO or by post. It is recommended that the PCN also gives:

- vehicle make and colour (if evident);
- detailed location of vehicle (full street name);
- the contravention code;
- observation start and finish times;
- PCN number (all PCNs should be uniquely identifiable);
- CEO's identification number; and
- the vehicle's tax disc number and expiry date.

52. It is recommended that photographs and notes by the CEO about the circumstances be kept as further evidence that the contravention took place and to help resolve any disputes. Authorities should provide CEOs with the appropriate equipment, training and guidance to collect such evidence in the circumstances that the authority has prescribed. The use of digital cameras and similar technology is strongly encouraged. Authorities should disclose their evidence at the earliest possible opportunity.

¹⁹ Regulation 6 of The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

²⁰ A device specified in the Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013

²¹ Regulation 9 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

²² See Regulations 3(2) and (4) of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013 and the Schedules to the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

53. There are three circumstances in which a PCN may be served by post²³. One is where the contravention has been detected on the basis of evidence from an approved device. The second is if the CEO has been prevented 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. The third is if the CEO had started to issue the PCN but did not have enough time to serve it before the vehicle was driven away and would otherwise have to write off or cancel the PCN. In these circumstances a PCN is served by post on the owner (whose identity is ascertained from the DVLA) and also acts as the NtO. The Regulations set out what information **must**²⁴ be stated on a PCN sent by post. Postal PCNs must be served within 28 days of the contravention²⁵.

(ii) Enforcement using approved devices

54. TMA Regulations²⁶ give the power to authorities throughout Wales to issue PCNs for contraventions detected with a camera and associated recording equipment (approved device). Welsh Ministers **must**²⁷ certify any device used to detect contraventions (i.e. with no supporting CEO evidence). Once certified they may be called an “approved device”. Welsh Ministers recommend that approved devices are only used where CEO enforcement is not practical and where permits or exemptions (such as resident permits or Blue Badges) not visible to the equipment may apply.

55. Welsh Ministers recommend that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN as supporting evidence.

56. The primary objective of any camera enforcement system is to ensure the safe and efficient operation of the road network by deterring motorists from breaking road traffic regulations and detecting those that do. To do this, the system needs to be well publicised and indicated with lawful traffic signs.

(iii) Immobilisation & Removals: General

57. Very few authorities now use immobilisation. Welsh Ministers are of the view that it should only be used in limited circumstances such as where the same vehicle repeatedly contravenes parking regulations and it has not been possible to collect payment for penalties, primarily because the keeper is not registered,

²³ Regulation 10 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

²⁴ Regulation 3(4) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013, paragraphs 2 and 3 of Schedule 1 and Schedule 2 to The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013.

²⁵ Regulation 10(4) of The Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013.

²⁶ Regulation 10 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013.

²⁷ Section 92 Traffic Management Act 2004 and The Civil Enforcement of Road Traffic Contraventions (Approved Devices) (Wales) Order 2013.

or is not properly registered, with the DVLA. Where a vehicle is causing a hazard or obstruction, it is recommended that the enforcement authority remove rather than immobilise. Immobilisation/removal activity should only take place where it gives clear traffic management benefits.

58. It is recommended that an enforcement authority formulate and publish clear guidelines for CEOs on when it will be appropriate to use immobilisation and/or removal. The guidelines should cover the order of priority in which vehicles should be dealt with, based on the nature of the contravention. Powers should not be used randomly and it is recommended that authorities consult with local police before drawing up such guidelines.

59. The decision on whether to immobilise or remove a vehicle requires an exercise of judgement and **must**²⁸ only be taken by an appropriately trained CEO in accordance with the appropriate regulations. Contractors or a CEO may then immobilise or remove the vehicle.

60. When a vehicle is parked where parking is permitted, authorities **must not**²⁹ immobilise in the first 15 minutes following the issuing of the PCN. Removal must not be used where the vehicle is parked in a permitted parking place unless 30 minutes has elapsed since the PCN has been served or 15 minutes in the case of 'persistent evader' vehicles (see below).

When a vehicle has been immobilised, a CEO **must**³⁰ affix a notice to it. The Regulations set out what that notice **must**³¹ say. The immobilisation device may only be removed by or under the direction of a person authorised to do so by the enforcement authority, following payment of the release fee and the penalty charge.

61. Where a vehicle is causing a hazard or obstruction the enforcement authority should remove rather than immobilise. If the vehicle is parked where parking is always prohibited (such as on double yellow lines), then the vehicle can be removed as soon as a PCN has been served³².

62. If a driver returns to the vehicle while immobilisation or removal is taking place, then unless they are a persistent evader, it is recommended that the operation is halted, unless the clamp is secured or the vehicle has all its wheels aboard the tow truck. If immobilisation or removal is halted the PCN should still be enforced.

²⁸ Regulation 12 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 and Regulation 5C(2) of the Removal and Disposal of Vehicles Regulations 1986.

²⁹ Regulation 13 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 and regulation 5C(3) of the Removal and Disposal of Vehicles Regulations 1986.

³⁰ Regulation 12(2) of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

³¹ *Ibid*,

³² Regulation 5C(3) of the Removal and Disposal of Vehicles Regulations 1986.

63. It is recommended that when a vehicle is immobilised and subsequently removed to a pound, the driver does not have to pay the clamp release fee.

64. Where vehicles are removed, enforcement authorities should contact the police and advise them of the time, place, vehicle registration number, and pound to attend for retrieval so they can deal with queries from motorists who report their vehicle stolen.

65. Where a vehicle has been immobilised or removed, an authority should seek to make it available to its owner immediately upon payment. In the case of clamp release, it is recommended that enforcement authorities set maximum times for releasing vehicles once they have received payment and publish these times along with their parking policy guidelines. It is recommended that these should be within one hour from payment being received, with a maximum time limit of two hours. The immobilisation or removal is the penalty and further inconvenience and potential cost from prolonged release times is not appropriate. It is recommended that enforcement authorities publish their performance against these targets.

66. On the release of a vehicle from a clamp or from the vehicle pound the authority **must**³³ immediately inform the vehicle owner or person in charge of the vehicle about their right to make representations and their subsequent right to appeal against representations that are rejected. The vehicle will already have been issued a PCN that sets out the grounds on which representations can be made. However, Welsh Ministers recommend that the notice about representations against the immobilisation or removal also gives full particulars of the grounds, procedure and time limit for representations. This is particularly important when credit or debit payments are made over the telephone.

67. Storage charges should apply for each day or part of day, reckoned from midnight on the day following removal of a vehicle.

(iv) Immobilisation & Removals: special consideration for disabled badge holders and vehicles with diplomatic registration plates

68. CEOs should be aware of special considerations to be followed in respect of valid Blue Badge holders³⁴ and vehicles with diplomatic plates³⁵.

³³ Regulation 8(2) and (3) of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013 and Regulation 3(2) and (3) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013

³⁴ Further guidance can be found in the Welsh Government Blue Badge Scheme and on the transport pages at www.wales.gov.uk

³⁵ Article 31.1 of the Vienna Convention on Diplomatic Relations; Diplomatic Privileges Act 1964; White Paper on Diplomatic Immunities and Privileges (Cmnd 9497, April 1985).

69. Vehicles displaying a valid Blue Badge **must not**³⁶ be immobilised and, as a general rule, should not be removed. In exceptional circumstances (for example, where a vehicle displaying a Blue Badge has been issued with a PCN and is causing a safety hazard), it is recommended that the vehicle be moved to a safe spot nearby, where possible within sight of its original location. The authorities should not charge a removal fee for the relocation of vehicles displaying a Blue Badge. They should notify the police in case the owner reports the vehicle stolen.

70. Diplomatic vehicles have registration plates marked with a D or an X, or have personalised plates composed of a country's initials or an abbreviation of its full name. In general, diplomatic vehicles should not be immobilised. The exception is for X registered vehicles that have been identified as persistent evaders. X registered vehicles can be removed as normal. Diplomatic vehicles with D or personalised plates causing an obstruction or danger should only be repositioned close by as an extreme measure. In such a circumstance, an enforcement authority should not try to recover the costs of removal.

(v) Persistent Evaders

71. Some vehicle owners contravene parking regulations deliberately and often, and fail to settle the debts they incur. A vehicle owner can be classed as a 'persistent evader' if there are three or more recorded contraventions for the vehicle and the PCNs 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 paid. Usually this is because the vehicle keeper is not registered, or is not correctly registered, on the DVLA database and the owner is confident that they can avoid paying any penalty charges. Where a vehicle appears to be registered in the UK, but the identity and address is not registered, or is not correctly registered on the DVLA database, authorities should consider making the information available to the police who can, if appropriate, investigate any criminal offence.

72. 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 is likely to involve immobilisation or removal. The benefit of removal is that it requires proof of ownership and a registered address before release of the vehicle, whereas immobilisation prevents law-abiding motorists from using valuable kerb space. If a vehicle of a persistent evader is in a designated parking place, the Traffic Management Act 2004 and regulations made under it prohibit an enforcement authority from immobilisation or removing the vehicle until at least 15 minutes³⁷ have elapsed

³⁶ Regulation 13(1) of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

³⁷ Section 79(6) of the TMA 2004; Regulation 13(4) of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013; Regulation 5C of the Removal and Disposal of Vehicles Regulations 1986 (as amended by The Removal and Disposal of Vehicles (Amendment) (Wales) Regulations 2014 (S.I. 2014/1388)).

following the issue of a PCN. Currently, under TMA regulations an authority can only obtain payment for the PCN of the contravention for which the vehicle is immobilised or removed and not any other outstanding PCNs.

Section 9: POLICY AND ADMINISTRATIVE FUNCTIONS

(i) Providing a quality service

73. Enforcement authorities should make sure that their processes for recovering outstanding penalties and handling challenges, representations and appeals are efficient, effective and impartial. Processes **must** comply with all relevant primary legislation, regulations, traffic regulation orders and local byelaws. Authorities are encouraged to seek independent quality assurance of their CPE processes.

74. Enforcement authorities should deal with motorists promptly and professionally. Authorities are encouraged to set time and quality targets for dealing with queries, in addition to any statutory time limits and those set down in this Guidance. They should report on performance against these targets in the local authority transport plans. Enforcement authorities **must**³⁸ use first class post for any notice or Charge Certificate.

75. Authorities should remember that an appeal is a judicial proceeding and that time limits for correspondence may be laid down in legislation or set using adjudicator's judicial powers. Authorities are advised to respond promptly to contacts from the adjudicator concerning appeals cases.

76. Enforcement authorities should offer motorists flexible and efficient ways to contact them, including e-mail and telephone. They should ensure there is an adequate audit trail to rebut any accusations of unfairness.

(ii) Collecting penalty charges

77. The penalty charge is usually payable by the owner³⁹ of the vehicle, unless the vehicle was hired at the time of the contravention. Enforcement authorities should offer motorists a range of facilities for paying penalty charges. Where they provide payment centres these should be safe and accessible. Enforcement authorities should make sure that any payment facility (particularly telephone and online payments) can confirm any amount outstanding if part payment only has been received.

³⁸ Regulation 3(1)(a) of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

³⁹ This expression is defined by Section 92 of the TMA 2004 as follows: "Owner" in relation to a vehicle, 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 proved) to be the person in whose name the vehicle is registered. See also regulation 5 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

78. If there are unusual delays with the postal system, authorities should make allowances for late payments made by post when considering whether a payment was received within the statutory discount period. Enforcement authorities may wish to keep the envelope that the payments came in, as the franking can be used as evidence of the date of posting.

79. A PCN is deemed 'paid' as soon as the payment arrives at any payment office belonging to the enforcement authority that issued the PCN. Whether this is the parking payment office or another payment office, the enforcement authority should promptly close the case. An authority's systems should accurately record the day on which it receives payments so that no further enforcement action is taken.

80. Where the enforcement authority receives full payment within 14 days of PCN issue, it **must**⁴⁰ accept the discounted amount. Unless Welsh Ministers authorise a departure from the guidelines on the levels of penalty charges, the discount **must** be set at the applicable rate – currently 50 per cent of the penalty charge⁴¹. The authority should then close the case. When a PCN has been served by post using evidence from an approved device, the discount period is 21 days from the date of service of the notice⁴².

(iii) Issuing the Notice to Owner (NtO)

81. If the penalty charge has not been paid the enforcement authority may issue a NtO. The purpose of the NtO is to ensure that the PCN was received by the vehicle owner and to remind the vehicle owner that the PCN is now due to be paid in full, and if it is not paid within a further 28 days it may be increased. The NtO may be issued 28 days after serving the PCN, and we expect authorities to send them within 56 days after serving the PCN. The ultimate time limit, in exceptional circumstances, is six months⁴³ from the "relevant date". There should be a very good reason for waiting that long to serve a Notice to Owner⁴⁴. The Regulations set out the information that the NtO **must**⁴⁵ give. There are different requirements when the PCN acts as the NtO (see above).

⁴⁰ Paragraph 1(h) of the Schedule to the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

⁴¹ The Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Regulations 2013

⁴² Paragraph 3(a) of the Schedule to the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

⁴³ Regulation 19 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

⁴⁴ *Ibid*

⁴⁵ Regulation 18 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 and Regulation 3(3) of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013

82. Authorities **must**⁴⁶ specify on the NtO (or PCN when served by post) the statutory grounds on which representations may be made. Where a photograph or other camera evidence shows that the parking contravention took place, authorities should send this with the NtO, as it should help to prevent unfounded representations.

83. Where a PCN is served on a vehicle with a diplomatic registration plate but no payment is received within 28 days, an enforcement authority should not issue an NtO but keep a record of the unpaid penalty charge. Every year the Foreign and Commonwealth Office will request details of all unpaid PCNs and then seek payment from the relevant contraveners.

(iv) Charge Certificate

84. The Charge Certificate tells the vehicle owner that the penalty charge has been increased and that action will be taken to recover the amount due through the County Court if it is not paid within 14 days. Unless Welsh Ministers authorise a departure from the guidelines, the increase in the penalty charge **must**⁴⁷ be set at the applicable rate – currently 50%.

85. The authority may issue a Charge Certificate where an NtO has been served, the penalty charge has still not been paid and no representation or appeal is under consideration. This **must not**⁴⁸ be done before the end of 28 days beginning with the date on which the NtO was served.

86. Where representations have been made and rejected, and no appeal has been made, the enforcement authority **must not**⁴⁹ issue the Charge Certificate before the end of 28 days beginning with the date on which the Notice of Rejection (NoR) was served. This is to give the vehicle owner time in which to appeal.

87. Where cases go to adjudication, authorities **must not**⁵⁰ issue a Charge Certificate before all due processes have been completed. If an appeal is made and withdrawn before the hearing the authority may, after 14 days beginning with the date on which the appeal was withdrawn, issue the Charge Certificate. If an authority issues a Charge Certificate before an appeal is decided, the adjudicator may then cancel the PCN on the grounds of procedural impropriety. The authority should cancel the void Charge Certificate.

⁴⁶ Regulation 18(2) and paragraph 2 of the Schedule to the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013 and regulation 3(3) and 3(4) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013.

⁴⁷ Paragraph 1(3) of the Schedule to the Civil Enforcement of Road Traffic Contraventions (Guidelines on Levels of Charges) (Wales) Order 2013

⁴⁸ Regulation 20 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

⁴⁹ *Ibid.*

⁵⁰ *Ibid* and Regulation 4(5)(b) of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013

88. If the penalty charge has not been paid 14 days after the Charge Certificate was served, the authority may apply to the Traffic Enforcement Centre at Northampton County Court to recover the increased charge as if it were payable under a county court order.

Section 10: CONSIDERING CHALLENGES / REPRESENTATIONS / APPEALS

89. The vehicle owner may dispute the issuing of a PCN at three stages:

- Owners may make so-called 'informal challenges' or 'informal representations' against the PCN before the authority has served an NtO (this does not apply when the PCN is issued by post as the PCN then acts as the NtO)⁵¹.
- Once an NtO has been served, an owner may make a formal representation against the NtO to the authority.
- If a formal representation is rejected the owner may appeal against the Notice of Rejection to an independent adjudicator.

90. It is in the interests of the authority and the vehicle owner to resolve any dispute at the earliest possible stage. Authorities should take account of the CEOs actions in issuing the PCN, but should always give representations and challenges a fresh and impartial consideration.

91. An authority has a discretionary power to cancel a PCN at any point throughout the CPE process. It can do this even if an undoubted contravention has occurred if the authority deems it to be appropriate in the circumstances of the case. Under general principles of public law, authorities have a **duty** to act fairly and proportionately⁵² and are encouraged to exercise discretion sensibly and reasonably and with due regard to the public interest.

92. Enforcement authorities have a **duty**⁵³ not to fetter their discretion, so should ensure that PCNs, NtOs, leaflets and any other advice they give do not mislead the public about what they may consider in the way of representations. They should approach the exercise of discretion objectively and without regard to any financial interest in the penalty or decisions that may have been taken at an

⁵¹ Regulation 3(2) of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013 (The enforcement authority must consider representations made at this stage but if it proceeds to serve a NtO after receiving such representations, then those or other representations can be made in accordance with Regulation 4 of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

⁵² Failure to act in accordance with the general principles of public law may lead to a claim for a decision to be judicially reviewed.

⁵³ Ibid.

earlier stage in proceedings. Authorities should formulate (with advice from their legal department) and then publish their policies on the exercise of discretion. They should apply these policies flexibly and judge each case on its merits. An enforcement authority should be ready to depart from its policies if the particular circumstances of the case warrant it.

93. The process of considering challenges, representations and defence of appeals is a legal process that requires officers dealing with these aspects to be trained in the relevant legislation and how to apply it.

(i) Challenges - also known as informal representations

94. It is likely that an enforcement authority will receive informal challenges against PCNs before they issue the NtO (this does not apply to PCNs issued by post where the PCN will act as an NtO). They are likely to receive these within the 14 day discount period. Enforcement authorities should give proper consideration and respond to these challenges with care and attention, and in a timely manner in order to foster good customer relations, reduce the number of NtOs sent and the number of formal representations to be considered. Welsh Ministers suggest that authorities should respond within 14 days. Enforcement authorities should also have suitably trained staff with the appropriate authority to deal with these challenges. If the evidence or circumstances (including mitigating circumstances) provide grounds for cancelling the PCN, then the enforcement authority should do so and let the vehicle owner know. If the enforcement authority considers that there are no grounds for cancellation, it should tell the vehicle owner and explain its reasons.

95. If a challenge is received within the discount period and subsequently rejected, Welsh Ministers recommend that the enforcement authority should consider re-offering the discount for a further 14 days to encourage payment. Authorities should always make it clear that an owner who has an informal challenge rejected may still make a formal challenge if an NtO is served⁵⁴.

(ii) Formal representations

96. Many enforcement authorities contract out on-street enforcement and car park enforcement and the consideration of informal representations. Enforcement authorities should not contract out the consideration of formal representations. Enforcement authorities remain responsible for the whole process, whether they contract out part of it or not.

97. Where CPE on-street and car park enforcement and associated operations are done by in-house staff, there should be a clear separation between the staff that decide on the issuing and processing of PCNs and the staff that decide on

⁵⁴ Regulation 3(2) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

representations. This is particularly important for cases referred back by the adjudicators. It ensures that decisions are seen to be impartial.

98. Elected members may wish to review their parking representations policies, particularly in the area of discretion, to ensure consistency with published policies. However, elected members and unauthorised staff should not, under any circumstances, play a part in deciding the outcome of individual challenges or representations. This is to ensure that only fully trained staff make decisions on the facts presented.

99. The authority's standing orders should be specific as to which officers have the authority to cancel PCNs. There should also be a clear audit trail of decisions taken with reasons for those decisions.

100. The grounds on which representations may be made are set out in the Regulations⁵⁵ and **must**⁵⁶ be stated on the Notice to Owner. Authorities **must**⁵⁷ consider representations made on any grounds. Representations must be made within 28 days of service of the NtO. Authorities have the discretion to accept late representations, and we encourage them to use this discretion when a vehicle owner gives a valid reason for the delay and has strong grounds for representations.

101. The enforcement authority **must**⁵⁸ consider representations and any supporting evidence against a Notice to Owner or immobilisation or removal, and serve notice of its decision on the person making the representations within 56 days of the service of the representations. The 56-day period in the Regulations should be seen as the maximum period and authorities should aim to decide representations as quickly as possible. Welsh Ministers consider that all decision notices should be served within 21 days.

102. If an authority accepts a representation against a Notice to Owner, it **must**⁵⁹ cancel the NtO and refund any sum already paid. Cancellation does not prevent the authority from serving another NtO for the same contravention on another person⁶⁰. Where an authority accepts a representation against immobilisation or removal, it **must** refund any sums paid to release the vehicle, except to the extent (if any) to which those sums were properly paid⁶¹. Where the removed

⁵⁵ Regulation 4(4) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

⁵⁶ Regulation 3 of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013

⁵⁷ *Ibid*, regulation 4(2)(b)(ii).

⁵⁸ *Ibid*, Regulations 5 and, 9, and Regulation 4 of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013

⁵⁹ Regulation 5(3) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

⁶⁰ *Ibid* Regulation 5(4).

⁶¹ *Ibid*, Regulation 9(4).

vehicle has already been sold and representations against removal are accepted, the enforcement authority **must**⁶² refund all the sale proceeds to the vehicle owner. It is likely that the vehicle owner will already have received the proceeds of the sale minus the cost of removal, storage and sale, and if this is the case the enforcement authority **must**⁶³ at this point refund the costs of removal, storage and sale. Any authority that undertakes immobilisation or removal should ensure that its staff are fully familiar with the relevant legislation.

103. Where a response or notice of decision is likely to be delayed for any reason, the enforcement authority should acknowledge receipt of the representation and explain the representation process, including when a decision notice will be dispatched.

(iii) Notification of the outcome of representations

104. Once an authority has come to a decision about a representation, it should promptly tell the person making the representation (usually the owner of the vehicle) what they have decided to do and why. If the person making the representation is not the owner (but is acting officially on their behalf) then the owner should be informed, where possible, of the decision.

105. If the authority rejects the representation, it **must**⁶⁴ serve a Notice of Rejection (NoR) stating that it will issue a Charge Certificate unless the PCN is paid, or an appeal made to an adjudicator. The notice of rejection **must**⁶⁵ set out the general form and manner in which an appeal can be made and that the adjudicator has the power to award costs against either party. The authority should give the owner clear and full reasons for its decision on a representation, in addition to the minimum required information.

106. If, following an unsuccessful representation, an authority decides to offer a new discount period for prompt payment, it should set out the dates of this period in the Notice of Rejection.

(iv) Adjudication

107. Adjudicators are appointed jointly by all the local authorities with CPE powers, with the agreement of the Lord Chancellor, and are wholly independent. They have a judicial position and should be treated accordingly.

108. If a local authority rejects a formal representation, the person who made the representation has the right to appeal to an adjudicator within 28 days of the date

⁶² Section 101A(2) of the Road Traffic Regulation Act 1984

⁶³ *Ibid.*

⁶⁴ Regulation 6 of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013

⁶⁵ *Ibid.*

of service of the NoR⁶⁶. An adjudicator has the discretion in appropriate circumstances to consider an appeal made after 28 days. The grounds for appeal are the same as those for formal representations and are set out in the Regulations⁶⁷.

109. If an adjudicator allows the appeal, the adjudicator may direct the authority to cancel the NtO and refund any sum already paid in respect of the penalty charge. The authority **must**⁶⁸ comply with this direction without delay.

110. The adjudicator's decision is final, subject to the power of adjudicators to review a decision⁶⁹. No further challenges can be made other than on a point of law through an application to the High Court for judicial review. The UK Government's Tribunals for Users programme emphasises the importance of feedback to improve the representations and appeals procedure and help prevent unnecessary appeals.

(v) Cases referred back to the enforcement authority by the adjudicator

111. An adjudicator may only allow an appeal if one of the statutory grounds for appeal applies. Where a contravention has taken place but the adjudicator considers that the enforcement authority should have used its discretion to cancel the NtO, the adjudicator may refer the case back for the enforcement authority to reconsider⁷⁰. Such cases should be directed to the Office of the Chief Executive and a decision **must**⁷¹ be reached within 35 days from the notice of the adjudicator's decision. If the enforcement authority does not reach a decision within this period, it is deemed to have accepted the adjudicator's recommendation and **must**⁷² cancel the NtO. The enforcement authority **must**⁷³ have regard to the reasons given by the adjudicator for the recommendation. Where it does not accept this recommendation it **must**⁷⁴ notify the adjudicator and the appellant of the reasons for its decision before issuing the Charge Certificate.

⁶⁶ Regulation 7 of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) (Wales) Regulations 2013

⁶⁷ Regulation 5 of the Civil Enforcement of Road Traffic Contraventions (Representation and Appeals) Removed Vehicles (Wales) Regulations 2013 and Regulations 7 and 10 of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

⁶⁸ Ibid

⁶⁹ Paragraph 12 of the Schedule to the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

⁷⁰ Regulation 5(5) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2013 and Regulations 7(5) and 10(5) of the Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (Wales) Regulations 2013

⁷¹ Ibid, Regulation 5(6) and Regulations 7(6) and 10(6) respectively.

⁷² Ibid, Regulation 5(8) and Regulations 7(8) and 10(8), respectively.

⁷³ Ibid, Regulation 5(8) and Regulations 7(8) and 10(8), respectively.

⁷⁴ Ibid, Regulation 5(7) and Regulations 7(7) and 10(7), respectively.

112. If the enforcement authority decides to accept the recommendation of the adjudicator, it **must**⁷⁵ cancel the NtO without delay and refund any sums paid in relation to the NtO.

Section 11: ENSURING THE EFFECTIVENESS OF CPE

113. Enforcement authorities can improve the efficiency and effectiveness of CPE regimes by maintaining a regular dialogue - and undertaking joint activity where appropriate - with their on-street contractor (if there is one), the police, neighbouring authorities, the DVLA, the Traffic Enforcement Centre and representatives of road user groups.

114. In particular, authorities should maintain good relations with the police. The police continue to have responsibility for enforcing endorsable and most types of moving traffic offences⁷⁶, and for taking action against vehicles where security or other traffic policing issues are involved. Regular liaison will help to ensure that civil and criminal enforcement operate effectively. Good relations between the police and an enforcement authority can also help in tackling threats and abuse aimed at CEOs.

115. It is recommended that enforcement authorities keep abreast of developments in neighbouring authorities' CPE operations and look into the benefits of consistent, and possibly collaborative, approaches to enforcement.

116. Authorities should develop good working relations with the DVLA, in particular with regards local authorities receiving keeper information promptly. Authorities should also consider helping the DVLA track down Vehicle Excise Duty (VED) evaders by notifying them of any vehicles that are not displaying a valid VED disc.

117. As far as possible, the performance of contractors and of staff should be judged according to how far desired transport objectives have been achieved. An enforcement authority should base performance measures and rewards or penalties, wherever possible, on outcomes rather than outputs. Performance and rewards/penalties should never be based on the number of PCNs, immobilisations or removals. Outcome indicators might include compliance statistics, the number of appeals, the number and length of contraventions and the localised impact they appear to have had on road safety and congestion. Incentives could work towards good customer service. For example, indicators for immobilisation and removals might be based on the release time of the vehicle after the owner has paid the appropriate fees.

⁷⁵ Ibid, Regulation 5(9) and Regulations 7(9) and 10(9), respectively.

⁷⁶ Alongside those local authorities who have applied for civil enforcement powers in relation to moving traffic offences.

118. When enforcement operations are carried out 'in house', there should be a Service Level Agreement (SLA) incorporating the specification terms and conditions required by the client department - the same as for a contract with an external service provider.

119. Welsh Ministers recommend that enforcement authorities use a balanced SLA or model contract, such as the one developed by the British Parking Association⁷⁷.

(i) Reporting

120. Reporting is an important part of accountability. The transparency given by regular and consistent reporting should help the public understand and accept CPE. Monitoring also provides the authority with management information for performance evaluation and helps to identify where it needs to improve its CPE regime. It provides a framework for performance comparisons between councils.

121. Enforcement authorities should produce an annual report about their enforcement activities within six months of the end of each financial year. The report should be published and as a minimum it should cover the financial, statistical and other data (including any parking or CPE targets) set out in Annex A.

122. Enforcement authorities should make annual returns to Welsh Ministers about the number and speed of payment of PCNs as part of the arrangements for reporting progress on the local authority transport plans. They should also advise the appropriate adjudication service in a timely fashion how many PCNs they have issued.

123. The income and expenditure of local authorities in connection with their on-street charging and their on-street and off-street enforcement activities are governed by Section 55 (as amended) of the Road Traffic Regulation Act 1984. This means that all their income and expenditure as enforcement authorities (i.e. related to the issue of and income from PCNs) in respect of off-street parking places is covered by section 55. Enforcement authorities **must**⁷⁸ keep an account of all income and expenditure in respect of designated (i.e. on-street) parking places which are not in a Civil Enforcement Area, designated (i.e. on-street) parking spaces which are in a Civil Enforcement Area and their functions as an enforcement authority. At the end of the financial year all enforcement authorities **must**⁷⁹ send a copy of these accounts to Welsh Ministers. Again, this should be done as part of the reporting on the Local authority transport plans.

⁷⁷ For further details contact the British Parking Association ref. Parking Model contract 2005 or go to <http://www.britishparking.co.uk>

⁷⁸ Regulation 23 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

⁷⁹ Ibid,

124. Where an authority makes a surplus on its on-street parking charges and on-street and off-street enforcement activities, it **must**⁸⁰ use the surplus in accordance with the legislative restrictions in Section 55 (as amended) of the RTRA 1984.

⁸⁰ Regulation 26 of the Civil Enforcement of Road Traffic Contraventions (General Provisions) (Wales) Regulations 2013

Annex A

What enforcement authority annual reports should include:

Financial

- Total income and expenditure on the parking account kept under Section 55 of the Road Traffic Regulation Act 1984;
- Breakdown of income by source (i.e. on-street parking charges and penalty charges);
- Total surplus or deficit on the parking account;
- Action taken with respect to a surplus or deficit on the parking account;
- Details of how any financial surplus has been or is to be spent, including the benefits that can be expected as a result of such expenditure.

Statistical

- Number of higher level PCNs issued;
- Number of lower level PCNs issued;
- Number of PCNs paid;
- Number of PCNs paid at discount rate;
- Number of PCNs against which an informal or formal representation was made;
- Number of PCNs cancelled as a result of an informal or a formal representation is successful;
- Number of PCNs written off for other reasons (e.g. CEO error or driver untraceable);
- Number of vehicles immobilised;
- Number of vehicles removed.

Performance against targets

- Performance against any parking or CPE targets. Authorities should note the recommendations throughout this Guidance on the areas where such targets might be appropriate.

Annex B

Abbreviations

CEA Civil Enforcement Area
CEO Civil Enforcement Officer
CPE Civil Parking Enforcement
CPZ Controlled Parking Zone
DBS Disclosure and Barring Service
DPE Decriminalised Parking Enforcement
DVLA Driver and Vehicle Licensing Agency
NoR Notice of Rejection
NtO Notice to Owner
PA Parking Attendant
PCN Penalty Charge Notice
PPA Permitted Parking Area
RTRA Road Traffic Regulation Act 1984
SEA Special Enforcement Area
SLA Service Level Agreement
SPA Special Parking Area
TEC Traffic Enforcement Centre
TMA Traffic Management Act 2004
TRO Traffic Regulation Order
VED Vehicle Excise Duty