

# Planning, Development and Transportation

## Overview & Scrutiny Committee Briefing

**Date:** 16<sup>th</sup> March 2020

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**SUBJECT: Penalty Charge Notices Debt Collection Process.**

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### **PURPOSE OF BRIEF**

To provide information on the Penalty Charge Notice (PCN) debt collection process and an overview of why PCN's are written off.

### **BACKGROUND**

Under the Traffic Management Act 2004 (TMA), Leicester City Council (LCC) has civil enforcement powers to issue PCN's to vehicles that are illegally parked or which contravene a bus lane. Enforcement is generally by Civil Enforcement Officers, but there are specific situations where traffic enforcement cameras can be used, e.g. at a bus gate or outside a school where there are school keep clear markings.

PCN's are generally issued manually for parking offences whilst bus lane offences are by post.

### **PROCESS**

Process flow charts for the issuing for both parking and bus lane PCN's are detailed in Appendix A (Parking) and B (Bus Lane).

Upon issuing a PCN, there are statutory processes and timeline that we have to adhere to.

Upon receipt of a PCN, the registered keeper of the vehicle has 28 days to make payment or a representation disputing the validity of the PCN.

Where no payment has been received after 28 days for a parking offence, the Driver and Vehicle Licencing Agency (DVLA) are contacted to obtain the registered keeper's details and begin the debt collection process.

The processes include formal efforts to contact the owner and recover the debt before progressing to the courts.

However, if payment is not forthcoming, then debt will be registered with the County Court which can ultimately result in a Warrant of Execution issued to an enforcement agency (Bailiffs) to attempt to collect the debt under The Taking Control of Goods Regulations.

## **UNRECOVERED DEBT**

After all informal, formal and legal processes have been exhausted and there is no realistic prospect of the debt ever being collected, then consideration is given to writing off the debt.

The specific reasons for writing off a debt are summarised in Appendix C.

The total value of debt written off in 2018/19 is summarised in Appendix D.

The number of PCN's issued in 2018-2019 for bus lane enforcement and parking offences totalled 127,128.

The total number of PCN's written off in 2018/19 was 25,187. The debt amounted to £2,072,795 and represents the full cost of the PCN at court stage, including court fees (N.B. if all PCN's had been paid within the 14-day discount period, then the value of the PCN income would have been circa. £800k).

The writing off of any debt has to be authorised by the relevant Divisional Director, Head of Finance and Head of Service.

The main reasons for writing off parking and bus lane PCN debts relate to tracing or contacting the registered keeper.

Parking and bus lane PCN debts are unlike other debts the council recovers as LCC only have access to the basic vehicle details and registered keeper address. It is an offence not to properly register the vehicle keeper's details with the DVLA.

However, in many cases the DVLA hold incomplete or inaccurate details of the registered keeper which means we cannot contact them

In addition, where address details are obtained, the keeper may no longer reside there or they may not have responded to any calls, letters or visits to the property by the Bailiff's, thus preventing the Bailiff from collecting the debt.

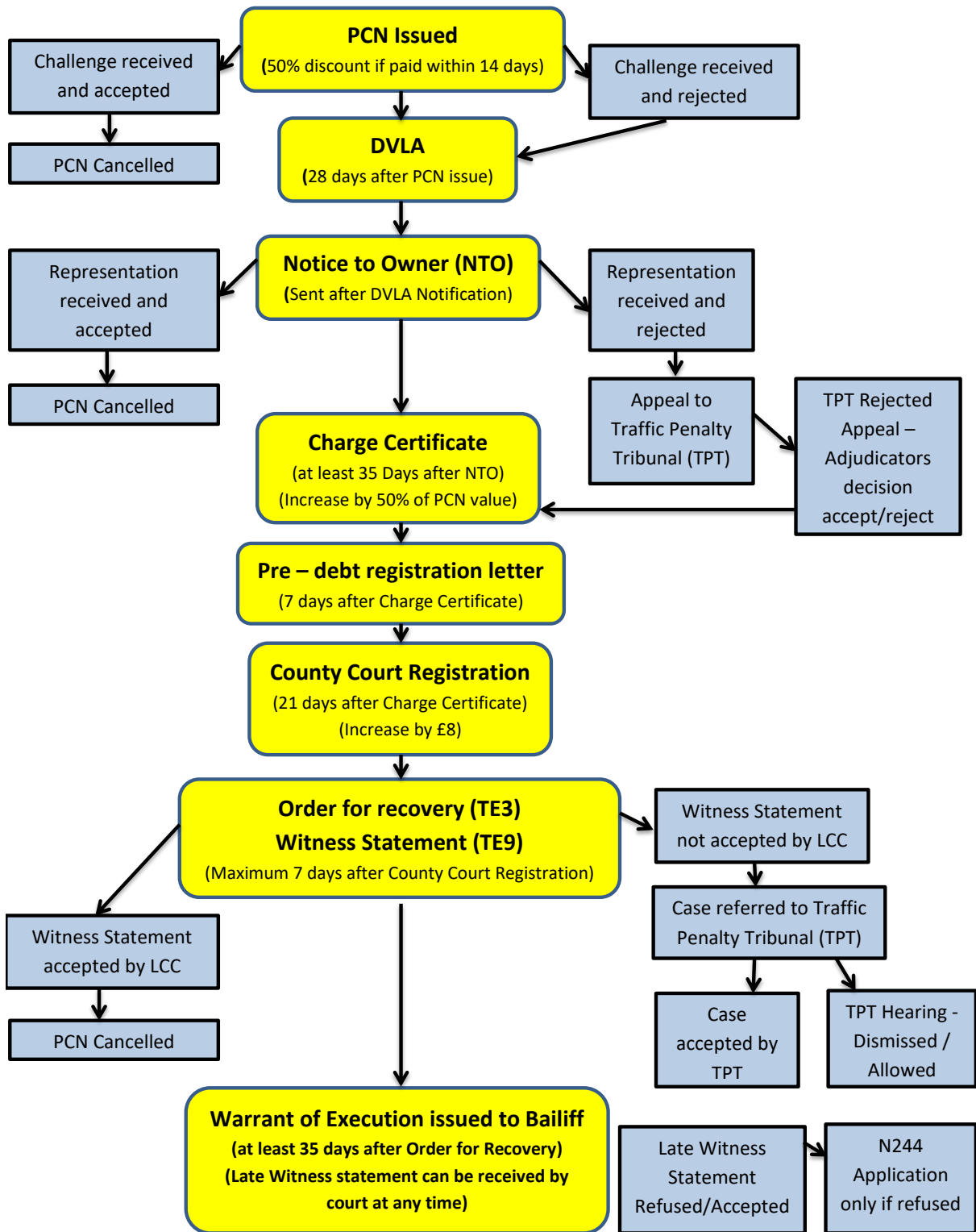
Changes in the way cars are taxed and registered has seen a significant increase in the number of vehicles registered as being kept off-road (SORN - Statutory Off Road Notification) and/or where the registered keeper details are not kept up to date.

## **RECOMMENDATIONS**

The Overview Select Committee is asked to note the contents of the briefing and comment as appropriate.

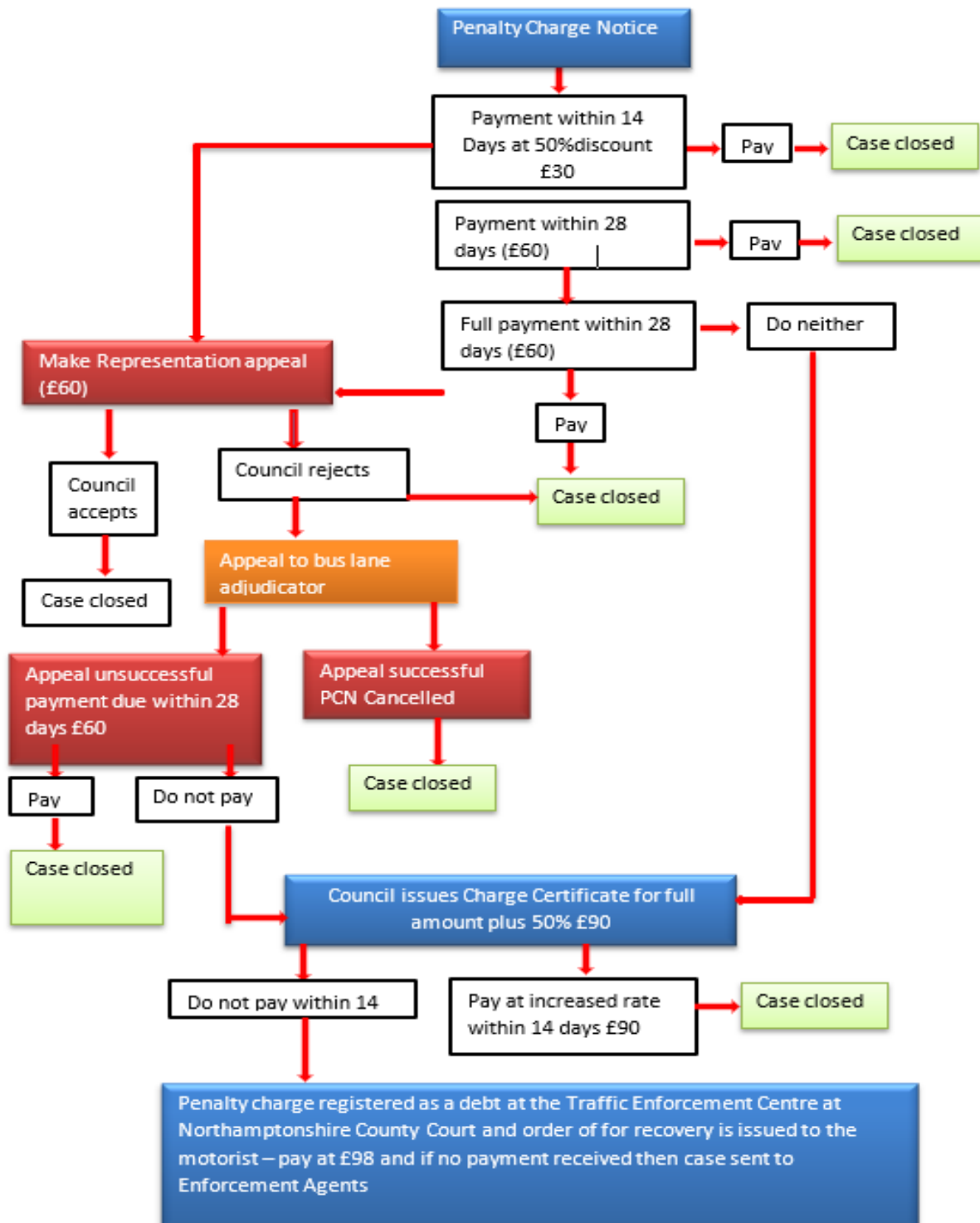
# Appendix A – Parking Enforcement PCN Debt Recovery Process

## Penalty Charge Notice Process Chart – Regulation 9 PCN



## Appendix B – Bus Lane Enforcement PCN Debt Recovery Process

**Enforcement Procedure Flow Diagram for Bus Lane PCN**



## **Appendix C – PCN Debt Write Off Categories**

**DVLA No Trace:** The case is uploaded to DVLA twice. Information is often returned with incomplete or no details of the registered keeper of the vehicle as it has not been properly registered with the DVLA. The case will likely be written off.

**Identity Fraud:** A PCN will be written off if sufficient proof has been received, e.g. had never owned a vehicle, never had a driving licence, elderly person not in a position to drive. Proof of a crime reference number from the police or an action fraud reference number received.

**Bankruptcy/Liquidation:** A PCN will be written off based upon the evidence produced. Paperwork confirming the bankruptcy / liquidation. Online checks are also made in respect of insolvency or debt relief orders in place.

**Cases too old to Pursue:** Occasionally, it is acknowledged that a PCN has not been dealt with correctly by either the local authority, courts or bailiffs. A decision will be taken to write off due to circumstances.

**Cloned Vehicles:** We will request photographic evidence. For example if a PCN is issued in Leicester but the person is not living or has never visited Leicester then the photographic evidence will usually help to prove the difference in vehicles. Checking the V5C (log book) document to confirm the make/colour of the vehicle can also help. The DVLA and the police will be notified of the findings

**Court Administration Order:** If an administration order is issued by the court stating that the person is not liable to pay or for any other reason stated in the court order.

**Debtor Abroad:** These are usually when a vehicle is hired whilst in the UK. The hire company provides the details of the hirer and the hire company are not liable legally for payment. Very rarely the hire firm will pay the charge. We will pursue the hirer if we have their email or a contact telephone number and if not successful the PCN will be written off.

**Deceased – No Assets.** This can be very sensitive however we will write to obtain a copy of the death certificate and also request details of any assets from the deceased from which the PCN can be paid. After trying all the avenues and if not successful, the PCN will be written off.

**Foreign Vehicle:** A vehicle with a foreign number plate does not have to be legally registered with the DVLA when entering the country. When a PCN is issued to a foreign vehicle, the system will automatically write it off after 180 days.

**System Error:** When there has been an ANPR camera error and an incorrect VRM has been detected and DVLA has provided information for that VRM thus PCN sent to the wrong driver.

**General Reason:** We have to use this option as in some cases there is no other relevant write off option to use. Examples include mitigating circumstances, upholding a complaint, health issues, etc. The explanation is given for each individual PCN.

**In Prison:** Normal legal process is followed by sending the letters to the registered keeper at the address confirmed by DVLA. Most of the time, contact is made by a friend or a member of the family to inform us that the person is in prison. We write back to obtain the information to enable us to contact the prison. Contact is made in writing with the prison to confirm when the person was taken in and the possible release date and if the person has any income. Once the information is received, a decision is made.

**Outside Jurisdiction:** The normal legal process is followed by sending the letters to the registered keeper at the address confirmed by DVLA until the case reaches debt registration with Northampton County Court. At this stage, as the address is not in England or Wales the case cannot be registered with the court. At this point the case and debt is written off.

### **Enforcement Agents (Bailiff) Categories:**

**Warrants Expired:** A warrant is valid for 12 months for enforcement agents to pursue the customer for an outstanding PCN. Enforcement agents will continue for 12 months to try and recover debts and a number of trace activities will be conducted during the 12 months. If no information is found, then cases will be returned under this category.

**No Trace:** Cases will progress through the compliance and enforcement stages until such time as they are identified as no trace. This will either be by returned documentation or by contact from a third party confirming no trace. If a trace is successful and a new address is obtained then the debt will be pursued, if no address is obtained during the 12 months then the cases will be returned as no trace.

**No Legal Access:** If the Enforcement Agent cannot secure any form of engagement with the debtor on the doorstep or cannot even attend at the premises due to access being denied such as flats, then it will be returned as having legal access being denied. At least 3 site visits are made by the bailiff at different times of the day.

**No Assets:** if the Enforcement Agent engages with a debtor who demonstrates they lack both finances and goods to take control of, then the case can be returned on the basis of no assets.

**Standards returns** (nulla bona) will result from those cases where despite attempts at engagement with the debtor, the case is unsuccessful in securing a payment and the returns are supported by a certificate that details that efforts that have been made.

## Appendix D – Bus Lane and Parking PCN Debt Written Off in 2018/19

<b>Reason</b>	<b>Bus Lanes PCN's</b>	<b>Bus Lanes Amount (£)</b>	<b>Parking PCN's</b>	<b>Parking Amount (£)</b>
DVLA Returned No Trace	2,566	77,070	3,809	253,268
DVLA Returned Invalid VRM	175	5,250	N/A	N/A
No Information from DVLA	239	9,174	N/A	N/A
Warrant Closed-Gone Away (Bailiff)	2185	213,356	N/A	N/A
Warrant Closed-No Contact (Bailiff)	11	988	N/A	N/A
Warrant expired (Bailiff)	1621	157,742	2,275	238,586
No legal access (Bailiff)	885	85,494	1916	202,562
Incomplete Address	80	5,006	N/A	N/A
Unable to establish owner / trace (No Trace)	339	24,232	6300	668,676
Liquidation/ Bankruptcy	72	6,904	66	7,252
Foreign Vehicle	172	7,178	1,782	53,460
System Error	1	98	N/A	N/A
Deceased	6	588	30	3,310
Scrapped/Vehicle crushed and destroyed	8	240	32	2240
Outside Jurisdiction (England & Wales)	126	11,364	62	6,504
Cloned vehicles	26	1,246	65	5,077
Debtor in Prison	9	882	31	3,289
Police investigation	2	60	N/A	N/A

Miscellaneous - Return to sender. ID Fraud, debtor abroad	259	19,048	37	2,651
<b>Total</b>	<b>8782</b>	<b>625,920</b>	<b>16,405</b>	<b>1,446,875</b>