

CARLISLE CITY COUNCIL

ANNUAL REPORT ON PARKING ENFORCEMENT OPERATIONS

2008/2009

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INTRODUCTION

Welcome to Carlisle City Council's annual parking enforcement report for the year 2008/2009.

The provision of parking places, the use of parking restrictions and the enforcement of those restrictions can be contentious issues. I hope that this report will provide an insight into why parking controls are necessary and into why and how the City Council enforces them.

The report includes useful information concerning the parking of vehicles, both on the highway (on street parking) and in car parks (off street parking). It details the Council's parking policies and it sets out the guidelines which the Council sets for those of its staff who issue penalty charges (parking tickets) and for its staff who deal with motorists' appeals against those charges. In addition, the latter part of the report details the Council's performance with regards to its parking enforcement operations over the past twelve months.

I hope that you will find the contents of this report both interesting and informative.

Keith Poole
Highways Services Manager
Carlisle City Council

ABBREVIATIONS

The following abbreviations are used in this report:

CEA	Civil Enforcement Area
CEO	Civil Enforcement Officer
CPE	Civil Parking Enforcement
DfT	Department for Transport
DVLA	Driver and vehicle Licensing Authority
TPT	Traffic Penalty Tribunal
NtO	Notice to Owner
PCN	Penalty Charge Notice
RTA91	Road Traffic Act 1991
TEC	Traffic Enforcement Centre
TMA 2004	Traffic Management Act 2004
TRO	Traffic Regulation Order

SECTION 1

PARKING RESTRICTIONS

1.1 Parking Enforcement – The Legal Background

The Road Traffic Regulation Act 1984 authorised local authorities to make Traffic Regulation Orders (TRO's) in order to control traffic movements and parking provision within their areas. Under that Act the City Council's scope for parking control was mainly limited to the issuing of Excess Charge Notices for mostly off street (car park) offences. Responsibility for other offences (such as parking on 'yellow lines') remained with police officers and traffic wardens. The income from Fixed Penalty Notices issued by the police, and by the traffic wardens employed by them, was not retained locally, it was instead paid to the Exchequer.

The police service was increasingly unable to provide the resources necessary to either deal directly with parking offences, or to fund and manage the traffic warden service. A number of police forces indicated their support for another agency taking on responsibility for parking enforcement. The consequences of the lack of enforcement, in terms of road safety and congestion, were deemed unacceptable and, in order to address the problem, the Government introduced the Road Traffic Act 1991 (RTA 91).

This enabled local authorities to establish Permitted Parking Areas and Special Parking Areas, within which non-endorsable parking offences would be decriminalised. Civil enforcement of those parking contraventions could then be undertaken by parking attendants employed directly, or indirectly, by the local authority. Penalty Charge Notices (PCNs) could be issued for perceived breaches of the parking restrictions within those areas and, unlike the previous system, the local authority would retain the income from those PCNs to help fund their new enforcement operations.

The aim was that those decriminalised enforcement operations for both on street and off street enforcement would in effect be self funding. Whilst raising revenue was not to be an objective of enforcement, should their enforcement operations produce a surplus of funds at the end of the financial year, those funds could be spent to either improve off street parking provision or on specified transport related matters.

Adoption of RTA 91 powers was mandatory for London Boroughs but optional for other local authorities. Following consultations with the Cumbria Police Force and Cumbria County Council, in order to further Cumbria County Council's transportation policies through effective control of parking, Cumbria County Council, as the highway authority, took on these powers on 1st September 2001.

Cumbria County Council is the enforcement authority responsible for all on street parking restrictions within the Carlisle district, the City Council carries out the on street enforcement on behalf of the County Council under the terms of an Agency Agreement. Carlisle City Council is the enforcement authority for all off street parking restrictions.

Subsequently, the introduction of the parking related sections of Part 6 to the Traffic Management Act 2004 (TMA2004) which came into effect on 31st March 2008 again changed the legal framework.

It widened the scope of local authority parking enforcement, it aimed to introduce greater openness and professionalism within parking operations and it largely harmonised the regulations applicable to authorities inside London with those pertaining to authorities outside of the capital. Under the new Act Decriminalised Parking Enforcement became Civil Parking Enforcement, Permitted Parking Areas and Special Parking areas became Civil Parking Areas and Special Enforcement Areas and Parking Attendants were re-named Civil Enforcement officers (CEO's).

The regulations accompanying TMA 2004 urged greater communication by local authorities of their parking policies, guidelines and performances and recommended that this could partly be achieved through the publication of annual reports, such as this one.

Under Part 6 to the Traffic Management Act 2004 on the 1st June 2009 two further contravention codes were introduced and made available to authorities outside London – Code 26 where a vehicle is parked more than 50cm (or other specified distance) from the edge of the carriageway and not within a designated parking place and Code 27 where a vehicle is parked adjacent to a dropped footway. These contraventions have not been implemented in 2008/2009 as the appropriate signage has not been agreed nationally.

1.2 Parking Policies

Parking policies are an integral part of the Council's local authority transport strategy. In accordance with the Department for Transport's "*Full Guidance on Local Transport Plans*" the Council's policies are aimed at tackling congestion and changing travel behaviour.

In setting those policies the Council has taken account of:

- Existing and projected level of demand for parking by all classes of vehicle.
- The availability and pricing of on street and off street parking places.
- The justification for and accuracy of existing Traffic Regulation Orders.
- The adequacy, accuracy and quality of signing and lining which either restricts or permits parking.

With regards to enforcement operations, the Council has set and continues to appraise;

- The optimum level of compliance with parking controls.
- The level of enforcement necessary to secure that compliance.
- The levels of penalty charges.
- The need to effectively resource the operation and to ensure that all parking staff are appropriately trained.

When formulating and appraising policies, the Council consults locally with individuals and with businesses that have a range of parking needs. It takes into account the views of the police and, where possible, works with neighbouring authorities to achieve a consistent approach.

The Council's parking control policies are to:

- Regulate the use of vehicles in the busiest and most congested areas.
- Improve traffic flow.
- Improve road safety (for vehicle users and for pedestrians).
- Encourage public transport usage.
- Safeguard the needs and requirements of residents, businesses, organisations and visitors.
- Regulate and control parking, both on street and off street.
- Encourage the use of car parks (particularly for longer visits).
- Provide sufficient short stay parking facilities to support shops, commercial organisations and leisure activities.
- Preserve and improve the current infrastructure and general environment.

1.3 Parking restrictions

Parking restrictions play an important part in helping to achieve the above policies aims. Wherever they are located, whether they are prohibitions on parking or are limitations as to who may use particular parking spaces, or limitations as to when they may be used, there will have been sound reasons for those restrictions having been introduced. These will have included reasons such as:

1. To prevent congestion and thereby improve traffic flow.
2. To improve road safety (for both vehicles and pedestrians).
3. To improve the quality and accessibility of public transport.
4. To improve the local environment.
5. To provide a fair distribution of parking spaces to meet the competing demands of:
 - Residents
 - Shops
 - Businesses
 - Pedestrians
 - People with disabilities
 - Visitors
 - Car drivers
 - Delivery drivers
 - Public transport users
 - Cyclists
 - Motorcyclists

There are many types of restrictions which may be used to achieve these aims, such as:

- Stopping or waiting restrictions (bus stop clearways, yellow lines, 'school' restrictions, etc.)
- Pedestrian zones
- Resident parking schemes
- Restricted parking zones
- Pay and display parking
- Bays for time limited parking
- Parking bays for specified users or for specified purposes (blue badge holders, taxi ranks, motorcycles, loading/unloading, etc.)
- Disc Parking Zones

Most of these are introduced by way of Traffic Regulation Orders and are indicated to motorists by way of road markings and/or signage, which has been specifically approved for this purpose by the Department for Transport.

The need to introduce a new restriction or scheme, or for an existing restriction to be removed or amended, may have been identified by officers of the Council, or it may have been suggested by local residents, Ward Members representing those residents, or by other interested parties (such as local business groups, transport service operators, the police or fire service). The merits of each submission and their potential impact are considered and the priority for their introduction is assessed under a scheme which takes into account factors such as the type of road and local accident records. The Council has limited funds available with which to introduce new restrictions and some schemes (particularly those which require lighting and signage) can be far more expensive to implement than others. Proposals therefore usually proceed in order of priority, as and when the necessary resources are available.

If a decision to proceed is made, the proposal is consulted upon and new or amended Traffic Regulation Orders are drawn up and advertised for public comment or objection. When a proposal for a new restriction is advertised, it is not a 'done deal'. Responses to the advertisement (whether in support of the proposal or against it) will be considered before a final decision is made on whether or not to implement the restriction.

Whilst there are many different types of parking restriction which may be introduced, they can be split into two distinct categories.

Those in the first prohibit all vehicles, or all but certain classes of vehicle, from stopping. These include bus stop clearways, taxi ranks, school restrictions, etc.

Those in the second group place restrictions on waiting (parking) by vehicles. These range from 'no waiting' (yellow lines), to 'limited waiting' (time restricted parking), or to waiting by specified users only (disabled badge holders, permit holders, pay and display parking, etc.) or to waiting for specified purposes only (loading bays).

Where these 'waiting' restrictions apply (as opposed to 'stopping' restrictions), vehicles are usually permitted to wait:

1. For the purpose of actively picking up or setting down passengers (but not to park to await the arrival of those passengers), or
2. For as long as may be necessary for the vehicle to be actively (continuously) loaded or unloaded. Such loading is allowed provided that it is necessary for the vehicle to be parked there for that purpose and that, in doing so, the vehicle does not create an obstruction to other road users (including pedestrians). If the vehicle could be parked nearby, without breaching parking restrictions and the goods needing to be loaded or unloaded are of such a nature that the driver could carry them to or from there to the premises without difficulty, then it would not be considered 'necessary' for the vehicle to be parked in breach of a waiting restriction nearer to the premises for the purpose of loading or unloading.

Additionally:

- Whilst parking to make a purchase from a shop would not be considered as 'loading', stopping to actively load bulky items which had previously been purchased into the vehicle would be.
- With regards to deliveries, the process of loading/unloading includes taking goods into nearby premises, getting delivery documents signed and returning to the vehicle. Activities such as installing the delivered items or preparing them for display are not counted as loading/unloading.
- Similarly, the unloading to, or collection from, a premises of bulky tools would be considered as loading and unloading. However, using those tools to conduct a repair within the building would not. In some cases however, it is not possible to affect repairs or other works to premises without the vehicle being present. The main utility companies (water, gas, electricity) are usually exempted from waiting restrictions, where it is necessary for them to park in breach of those restrictions to conduct repairs either on the highway, or in adjacent premises, to pipes, sewers, telegraph lines, etc. Other non 'utility' companies can face similar problems and the council's parking section will, wherever possible, seek to assist them by either providing them with a dispensations or a contractors permit enabling their vehicle to be temporarily parked in breach of parking restrictions (provided that the vehicle would not obstruct the flow of traffic), or by seeking to identify nearby sites where the vehicle could be parked without breaching parking regulations.

Whilst the activity of loading is usually permitted on yellow lines, it is not if there is also a loading ban in force. A loading ban is indicated by yellow marks on the kerb and the times at which the ban applies will be shown on nearby signage.

Wherever parking restrictions are in force, these will be indicated to motorists by the use of road markings and/or signage. Double yellow lines usually mean 'no waiting at any time' and they therefore do not require any accompanying signage. However, if the yellow lines represent a seasonal restriction (one which only applies during certain months of the year only), there will be signage present to indicate this.

The times at which other restrictions apply are shown either on nearby plates, or on zone entry signs. If no days are shown on the signs, then the restrictions are in force every day of the year, including Sundays, Bank Holidays and Public Holidays. If no times are shown, then the restriction applies 24 hours a day.

In the case of parking bays, these may be reserved for use by certain users only or for use for certain purposes only (either at all times, or between certain hours). Some bays are reserved for use by different users or for use for different purposes, at different times of the day. Whatever the restrictions, they will be specified on the nearby plates.

Whenever parking, it is essential that motorists always read the nearby signage plates to ensure that they are aware of the restrictions which are in force and when those restrictions apply. Where parking bays are provided, vehicles should always be parked wholly within the markings of those bays.

Information concerning parking and examples of road markings and signage can be found in the '*Highway Code*' and in the Department for Transport's '*Know your Traffic Signs*' booklet. These publications and other useful information related to parking can be found on the Department for Transport's website www.dft.gov.uk

The Council also provides many off street car parks for use by motorists. Each car park will have at least one information board and, in the case of those to which pay and display charges apply, there will be a board situated next to each of the ticket machines. Again, it is necessary for motorists to take the time to read these, as failure to park in accordance with the car park rules can result in penalty charges being incurred.

Whenever using pay and display parking do not forget that you need to leave the ticket which you have purchased prominently displayed in your vehicle, so that the side which shows the ticket details (time, date, amount paid, expiry time, etc.) can be easily read from the outside of the vehicle. As tickets can be dislodged by gusts of wind when doors are opened or closed, it is always advisable to check that your ticket is correctly displayed before you leave your vehicle.

The locations of the Council's car parks and the charges for their use (where applicable), along with other useful parking related information, can be found in the "Parking" section of the Council's website www.carlisle.gov.uk

Please remember that whenever you park, whether or not there are parking restrictions in force, you must not leave your vehicle in a dangerous position, or in a position whereby it would cause an obstruction to other road users. The offences of 'dangerous parking' and of 'obstruction' are not subject to Civil Enforcement. These remain criminal matters which are enforceable by the Police.

1.4 Parking by Blue Badge Holders

The Blue Badge scheme provides a national range of parking concessions for those disabled people with mobility problems who have difficulty using public transport. The scheme is designed to help disabled people to travel independently, either as a driver or passenger, by allowing them to park close to their destination.

Details of the scheme, the concessions applicable and the responsibilities of Blue Badge holders can be found in the Department for Transport's booklets:

- *'Can I get a Blue Badge?'*
- *'The Blue Badge Scheme: Rights and responsibilities in England'*
- *'The Blue Badge Scheme, Guidance for blue badge holders and their drivers on the power to inspect blue badges being displayed on motor vehicles'*

The first booklet is aimed at potential applicants for a badge whilst the other two are issued to badge holders with their new or renewed badges. Copies can be found in 'The Blue Badge Scheme' section of the Department's website www.dft.gov.uk. Alternatively they can be obtained from your local badge issuing authority at Cumbria County Council, Social Services Department.

It is very important that all blue badge holders carefully read these booklets before attempting to use their badges. Whilst certain concessions are offered, particularly with regards to where waiting restrictions (yellow lines) apply, the scheme does not provide a blanket exemption from all on street parking restrictions.

It should also be noted that this national scheme applies to on street parking only. It does not apply to off street car parks. Most car park operators provide parking spaces for disabled people, but it is up to the car park owner to decide whether their charges will apply to blue badge holders.

Whenever using a car park (whether council operated, or privately owned), blue badge holders should always check the car park information boards to see whether there are any concessions available to them. They should not assume that their badge entitles them to park free of charge or for an unlimited amount of time, as this may not be the case.

SECTION 2

THE ENFORCEMENT OF PARKING RESTRICTIONS

2.1 Penalty Charges

Wherever the Council has introduced parking restrictions, whether on street or in its car parks, vehicles which appear to have been parked other than in accordance with those restrictions may be issued with penalty charges.

The Secretary of State for transport decided that with effect from 31st March 2008, local authorities would be required to issue two different levels of penalty charges in their enforcement areas (differential charging). A higher level charge for parking in places where parking is prohibited (such as on yellow lines, or in a disabled bay without displaying a valid badge) and a lower level charge in respect of contraventions relating to places where parking is permitted (failing to display a pay and display ticket, overstaying the permitted time, etc.) as the latter are mostly deemed to be less serious. Previously, all contraventions received the same penalty, regardless of the seriousness of the offence and this was perceived by many as being unfair.

There is a single nationwide standard list of parking contraventions for which CEOs may issue Penalty Charge Notices (PCNs), but not all of the contraventions will be relevant in every local authorities' individual area (for example some areas have on street parking meters whilst others do not). The full list can be found in the "Parking" section of the PATROL (Parking and Traffic Regulations outside London) website www.patrol-uk.info It is the Secretary of State for Transport who decides which of these parking contraventions will be subject to which of the two levels of charge.

A CEO will usually serve a PCN by either attaching it to the vehicle, or by handing it to the person who appears to be in charge of the vehicle, although there are certain circumstances under which, if the CEO has been unable to do this, the PCN may be served by post. Where camera enforcement is in use (mainly used in respect of moving traffic contraventions), the PCN will always be served by post.

The PCN will specify the contravention which is alleged to have occurred and the amount which is payable. Amongst other information, it will also detail the available options and methods for payment or appeal. Unless a successful appeal has been made, the penalty charge must be paid within 28 days of the date on which it was served (if paid within 14 days the amount of the charge will be reduced by the statutory amount – currently 50%). If it is not paid within 28 days, the Council may then serve a Notice to Owner on the registered keeper of the vehicle.

2.2 Civil Enforcement Officers – Policies and guidelines

Regrettably, experience has shown that where motorists perceive that there is either no active enforcement of a restriction or that enforcement levels are limited, it is far more likely that they will 'take a chance' and ignore the restriction. For restrictions to have their desired effect, it is therefore necessary for them to be enforced.

Within the district of Carlisle, the Council have decided that parking enforcement will be undertaken by Civil Enforcement Officers (CEOs) who are directly employed by the City Council. By keeping this function 'in house' the Council is better able to ensure that all aspects of its parking enforcement operations are undertaken by well trained, high quality staff, whose performance can be effectively monitored against the standards and guidelines which the Council has set for them to follow.

Whilst the Council will monitor the performance of its CEOs it will not set any targets with regards to the numbers of PCNs which they will issue. They are salaried employees of the Council who receive no performance related bonuses, or other performance related incentives. The Council deploys its CEOs in such a manner as to provide coverage of all parking restrictions throughout the district, although it is of course also necessary to prioritise those areas where the most parking problems are experienced, such as in and around Carlisle city centre.

The Council has set the following Code of Practice for the standards and guidelines which its Civil Enforcement Officers must follow:

- As required by law, whenever conducting their enforcement duties they must wear the uniform which is issued to CEOs by the Council. The uniform will clearly show the name of the Council, the personal identity number of the CEO and that the CEO is engaged in parking enforcement.
- In order to check that vehicles within their patrol area are parked in accordance with the parking regulations and, where they are not, CEOs will enforce the parking regulations by issuing PCNs as appropriate.
- In order to protect them from allegations of inconsistency, favouritism or suspicion of bribery, once CEOs have issued PCNs they do not have the discretion to either cancel or withdraw them (although they may be re issued if necessary). If a motorist wishes to dispute a PCN which has been issued, they must follow the appeals procedure which is detailed on the back of the Notice.
- Motorists are expected to park correctly, with due regard to any parking restrictions which are in force. On finding a vehicle which has been parked in contravention of such restrictions, the CEO will enforce the restriction. It is not their job to attempt to track down motorists in order to ask them to park their vehicles properly.
- The leaving of a note on a vehicle (such as "working at number 17") does not exempt that vehicle from a parking restriction. Similarly, whilst a note may claim that a vehicle has "broken down", unless there is obvious damage to the vehicle which would prevent it from being moved, a CEO cannot be sure of the validity of such a claim. Whilst they are expected to record the presence of such notes, they are to issue a PCN as appropriate. It will be for the motorist to subsequently appeal against the PCN if they wish to do so. With regards to a broken down vehicle, a motorist will usually be able to provide some form of documentary evidence of the nature of the problem to accompany their appeal and this will of course be taken into account in deciding whether or not payment of the PCN will be required.
- CEOs are to conduct their enforcement duties in a thorough, fair, consistent and professional manner and to treat all motorists equally, without showing favour, bias, or prejudice.

- In addition to parking enforcement, it is an integral part of the Council's CEOs duties to assist the public by providing them with advice and guidance on parking, general information or tourism related matters.
- They will inform the police of suspected criminal activity and their high profile, uniformed patrols will hopefully help to dissuade such activity. In cases of accident or emergency, they are to assist the police when required, but must not put their own safety at risk to do so. They may only attempt to direct moving traffic when working under the direct instruction of the police.
- Whilst on patrol, they will look out for and report:
 - i. Potential dangers to the public (to the Council or the emergency services as appropriate).
 - ii. Suspected abandoned vehicles (to the Council).
 - iii. Untaxed vehicles (to the Council).
 - iv. Faults with parking equipment (pay and display ticket machines, signage, or road markings) which they cannot rectify themselves. With regards to ticket machines, the replenishing of ticket stocks the checking and setting of clocks, and the clearing (where possible) of jammed tickets or coins is part of their daily duties.
 - v. Changes in parking patterns and/or possible changes to parking restrictions which may be appropriate.

As stated above, when finding a vehicle which appears to be parked in contravention of a parking restriction, it is the duty of the Civil Enforcement Officer to issue a Penalty Charge Notice to the vehicle. They have no powers to subsequently to cancel or withdraw the notices issued.

However, there will be certain circumstances under which, even though a parking contravention appears to have occurred, it would not be appropriate for them to issue a PCN. The Council has therefore set the following policy;

Civil Enforcement Officers have the discretion not to issue PCNs under the following circumstances:

- When a motorist's vehicle has been parked with the permission of, or at the direction of, either a police officer in uniform, or with the knowledge of the Parking Services Team.
- When a vehicle has been prevented from proceeding by circumstances beyond the driver's control, or has been stopped in order to avoid injury or damage to persons or property.
- When the driver is still with the vehicle and, upon request by the CEO, they immediately remove the vehicle, or take steps to ensure that the parking regulations are complied with.
- When the driver returns to the vehicle either during the CEOs observation period, or whilst the PCN is being prepared, but before it can be issued, then the CEO may issue a verbal warning instead (provided that in response to the warning, the motorist then removes the vehicle or takes steps to comply with the parking regulations).

- When a CEO believes that their personal safety would be threatened if they were to do so. Under the TMA 2004 legislation, if a CEO is prevented from issuing a PCN either indirectly through abusive behaviour or intimidation, or directly through threats or actual physical force, then the PCN may instead be issued by post. Additionally the Council will not tolerate threats, intimidation, or assaults on its staff and will therefore not hesitate to initiate criminal prosecutions in respect of such behaviour.

Parking restrictions are there for good reasons and the Council aims to ensure that its Civil Enforcement Officers deliver enforcement of those restrictions fairly and in accordance with the law. The Council's CEO's conduct duties which are intended to benefit the public and the Council expects that they will perform their enforcement duties efficiently and with proper regard to the rights of the motorists.

CEO's work throughout the year, in all weathers and often in difficult circumstances. As most of the Districts parking restrictions apply 24 hours a day, 7 days a week, CEO's are required to work on a shift basis to give the widest possible enforcement coverage. Whilst their efforts may not be appreciated by those motorists whose vehicles have been issued with PCN's it should be emphasised that those who park correctly, in accordance with the parking regulations, will not be liable to such charges.

The purpose of issuing PCN's is to dissuade motorists from breaking parking regulations. It is hoped that, through the efforts of its CEOs the Council will be able to improve levels of compliance in order to achieve its parking control policies specified earlier in this report.

2.3 The appeals process

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

When allowing other persons to use their vehicles, vehicle owners should bear in mind that it is still they, the vehicle's owner and not the vehicle's driver who will be liable to pay any penalty charges incurred in respect of parking contraventions.

The only exception to this is where the vehicle was hired from a firm under a hiring agreement and the person hiring it had signed a statement of liability in respect of any penalty charge notice served in respect of the vehicle during the currency of the agreement.

Vehicle owners may dispute the issuing of a PCN at three stages:

1. They can make an informal 'challenge' or 'representation' before the Council issues a Notice to Owner (NtO) (This does not apply in the case of a PCN issued by post, as the PCN then also acts as the NtO). As a challenge at this stage will be made by the person who has received the PCN, it may be that the person submitting the challenge was the driver of the vehicle, rather than the vehicle's owner.

2. Once an NtO has been served, they can make a formal representation against the NtO (this can still be done if an informal challenge has previously been made and rejected). The legislation sets out specific grounds on which formal representations against the NtO may be made (these will be specified upon the Notice to Owner), however whether or not those grounds apply, representations may also be made on the basis that, in the particular circumstances of the case there are compelling reasons for the cancellation of the penalty charge.
3. If the formal representation is rejected, the Council will issue a Notice of Rejection. The appellant then has the right to appeal within 28 days of the date of issue of the Notice of Rejection to an independent adjudicator of the Traffic Penalty Tribunal. The adjudicators have a judicial position. They are appointed with the agreement of the Lord Chancellor and they are wholly independent. Their decisions are final (subject to their own power to review a decision) and they have the power to award costs against either party. No further challenges can be made, other than on a point of law through an application to the High Court for Judicial Review. Appellants may choose to appear before the adjudicator at a personal hearing, or they may elect for a postal hearing where the adjudicator will reach a decision based upon the written evidence supplied by the two parties. Telephone and on-line hearings are also now starting to be made available. Full details of the adjudication service and of the appeals process can be found on their website www.trafficpenaltytribunal.gov.uk

General information about parking and the associated rules and regulations which may assist motorists in deciding whether to pay or to challenge a PCN, can be found on the 'Parking and Traffic Regulations outside London' website www.patrol-uk.info

2.4 Policies for the handling of appeals

The process of considering challenges, representations and defence of appeals is a legal process. It is necessary for the Council to keep a full and accurate record of all challenges which have been made and of the responses given in respect of those challenges. This is why the Council requires that all representations are made in writing (by letter, e mail, or by completing one of its 'challenge forms' which are available at Customer Services, Civic Centre, Carlisle, CA3 8QG or online at www.carlisle.gov.uk).

The Council has the discretion to cancel a PCN at any point in the appeals process and has set out the following policy with regards to the handling of appeals and to the exercise of that discretion:

- All challenges and representations will be considered and each case will be decided upon its own individual merits. Any extenuating or mitigating circumstances will be taken into account.
- The staff who issue PCNs will not handle representations which are made against PCNs.
- Representations will only be dealt with by staff who have been trained in the handling of such representations. Those staff shall be authorised to exercise the Councils discretion to cancel PCNs.

- Elected members and unauthorised staff will play no part in deciding the outcome of challenges or representations (as per Part 6 to the Traffic Management Act 2004).
- Every case will be looked into individually and supporting evidence may be requested before a decision on the outcome of an appeal can be made. Whilst every case will differ, it may be appropriate for the Council's discretionary power to cancel penalty charges to be used in the following circumstances:
 1. Where a vehicle could not have been moved due to an accident or breakdown.
 2. Where the vehicle had been stopped and left on the instructions of a police officer.
 3. Where the Council is satisfied that the driver of the vehicle was prevented from returning to it by circumstances which were beyond their control and could not have been foreseen (such as due to an accident or injury).
 4. In certain cases where the PCN was issued in respect of the non-display of a pay and display ticket if a ticket had in fact been purchased but was displayed incorrectly and it is subsequently produced. Provided that it is confirmed that the ticket would have been valid for use on that vehicle, in that parking place at the time of the alleged contravention.
 5. In cases where the vehicle was being used by a disabled badge holder, but their blue badge had not properly been displayed, i.e. it was face down. If the badge is later produced, provided that the badge is confirmed as being valid and that had it been properly displayed at the time of the alleged contravention the PCN would not have been issued. Only one cancellation will be permitted per badge holder under these grounds as the onus is on the badge holder or driver to ensure the badge is correctly and clearly displayed prior to leaving the vehicle.

Whilst each case will be considered on its own merits, if the Council uses its discretion to cancel a PCN, it may be less inclined to exercise that discretion again if the same vehicle owner incurs a subsequent PCN in similar circumstances.

- All representations made against an NtO (within 28 days of the NtO having been served) will be considered. Representations received after the expiry of the 28 day time limit will not be disregarded if evidence (such as a postmark) indicates that they were made within that period. The law requires that the Council must then serve notice of its decision on the person making the representation within 56 days. The Secretary of State considers that the decision notices should be served within 21 days of receipt. If for any reason there is likely to be a delay in providing the Council's response, the appellant will be advised accordingly.
- Where an informal representation has been rejected, if a subsequent informal or formal appeal is received, this will be handled by a different officer. They will re-examine all of the facts, circumstances and evidence of the case and will then make a decision independent of the one which was previously given.
- Where an informal representation is made within the 14 day discount period, if it is rejected, the discount period will be re-offered for a further period of 14 days.
- Every representation will be handled in a timely and professional manner and in accordance with the requirements of the relevant legislation.

If a duly authorised officer of the Council considers that the evidence or circumstances in relation to either an informal appeal, or to a formal representation, provided sufficient grounds to warrant the cancellation of the PCN, then s/he will cancel the charge and will advise the appellant accordingly. If any monies have already been paid, these will be refunded.

For further information regarding the cancellation of PCNs, please refer to the document 'Countywide guidance policies for the enforcement and cancellation of Penalty Charge Notices' which can be found on the website at www.carlisle.gov.uk.

2.5 Recovery of unpaid penalty charges

Where a Notice to Owner has been served on a vehicle owner and either:

1. 28 days have passed since the NtO was served and no representation or appeal is under consideration, or
2. representations have been rejected, 28 days have passed since the Notice of Rejection was served and no appeal has been made to an adjudicator, or
3. an appeal was made to an adjudicator but was withdrawn before the hearing and 14 days have passed since the date on which it was withdrawn, or
4. an appeal which was made to an adjudicator was refused and 28 days have passed since the date on which the adjudicator's decision was served on the appellant

and the penalty charge has still not been paid, then the Council may issue a Charge Certificate.

The Charge Certificate tells the vehicle owner that the penalty charge has been increased by the statutory amount (currently 50%) and that, if it is not paid within 14 days the Council may apply to the Traffic Enforcement Centre (TEC) at Northampton County Court to register the Charge Certificate and recover the increased charge as if it were payable under a County Court Order.

Once registered, the TEC will send the Council an authority to issue an order for the recovery of the amount outstanding (the unpaid penalty charge, any costs awarded against the motorist by an adjudicator, plus the registration fee (currently £5)). The Council must then send an order informing the motorist that, within a further 21 days from receipt of the order, they must either pay the amount outstanding or send to the TEC a Witness Statement to refute the need to pay the penalty charge (the order will state the grounds on which a Witness Statement can be made).

If the motorist fails to either pay the outstanding amount or to submit a Witness Statement, the Council can ask the TEC for the authority to prepare a Warrant of Execution. This authorises a certified bailiff to seize and sell goods belonging to the motorist to the value of the outstanding amount, plus the cost of executing the Warrant. Whilst this is the normal means of collecting unpaid debts, there are circumstances in which an authority can use other means, such as an attachment of earnings order, a garnishee order or a charging order.

The Council would emphasise that it would prefer to see matters settled at as early a stage as possible (either through payment of the penalty charge, or by way of a successful appeal against it), rather than having to resort to the use of these powers.

SECTION 3

PERFORMANCE

3.1 Developments during 2008/2009

Last year was an exceptionally busy one for the Councils parking section.

The predominant issue for the parking staff to cope with during 2008/2009 was the change in the legislation under which they operate (from RTA 91 to TMA 2004). The date of implementation of TMA 2004 of 31st March 2008 was not released until late in the process by DfT (this was after the initial Act was due to come into force in 2004 but the implementation date was subsequently put back on a number of occasions). Two lengthy consultation exercises were undertaken by DfT which were aimed at shaping the content of both those regulations and the guidance for their operation. On receipt of the finalised details from DfT, much further work went into firstly assessing the scope, content and potential impact of the legislation and then into the preparation for its implementation. This preparatory work included:

- Advertising and introducing the new 'differential' higher and lower amount penalty charges.
- Introducing the new, TMA 2004 compliant, Penalty Charge Notice, Notice to Owner, Notice of Rejection and Charge Certificate documents.
- Purchase and installation of new hardware systems and office software systems, so that those PCNs issued up to 31st March 2008 could continue to be processed under the old RTA 91 regulations, whilst those issued after that date could be processed in accordance with the requirements of TMA2004.
- Amending where necessary both the County Council and City Council TROs, correspondence, literature and signage to reflect the new regulations and new penalty charge amounts.
- Train both operational and office staff on the content of the TMA 2004 and on the changes to internal procedures which its implementation necessitated.

This all had to be achieved in the space of just a few short months, with computer software providers, training companies and other service providers having to handle simultaneous requests for their assistance from local authorities throughout the country. Having succeeded in putting major requirements in place by the required date we were ready to enforce with the new legislation by 31st March 2008.

Two further contraventions were added on the 1st June 2009 and further parts of the TMA 2004 will enable local authorities with CPE powers to enforce some bus lane and moving traffic contraventions (stopping in yellow box junctions, making prohibited turns, failing to comply with 'no entry' signs, etc.) are also to be introduced.

However due to these additional powers being enforced by camera enforcement, the additional cost of installing this equipment, with the very small minority of motorists who do not comply with the regulations, Cumbria County Council have decided not to take up these additional powers at the present time.

During 2008/2009, the County Council introduced a number of new Traffic Regulation Orders including:

- The addition of a loading bay and disabled person's parking place on Wilfred Street.
- The overnight road closure in Botchergate every Friday and Saturday from 9.00pm to 5.00am the following morning.
- No waiting restrictions on the junctions of streets within Zone B and H which restricts vehicles parking on the junctions and causing an obstruction.
- School 'Keep Clear' restriction on Raffles Avenue outside Newtown School.

These new restrictions are now in place and being enforced by the Civil Enforcement Officers. Other Traffic Regulation Orders which have been advertised or are still pending after the 31st March 2009 will be referred to in next years report.

With regard to existing TRO's, the Council continues to review the necessity to retain or amend those parking restrictions which are already in place. The quality of the signage and carriageway markings which denote those restrictions are regularly checked, repairs or replacements are ordered when required.

Despite the enormous amount of work involved in the introduction of the TMA2004, the parking staff continued to strive to provide a high quality service, professionally, fairly and in accordance with the law.

3.2 Financial Performance

As a local authority which operates Civil Parking Enforcement (Carlisle City Council is the 'Enforcement Authority' with regards to its own off street parking provision and acts as the agent for Cumbria County Council who are the 'Enforcement Authority' with regards to on street parking), the Council is required to keep an account of all its income and expenditure in connection with its on street and off street enforcement activities. These finances are governed by Section 55 (as amended) of the Road Traffic Regulation Act 1984.

The legislation sets out provisions for dealing with any deficits or surpluses in the account at the end of the financial year. Any deficit is to be made good out of the authority's general fund, whilst a surplus can either be carried forward in the account to the next financial year, or it can be appropriated to the carrying out of a specific project for one of the following purposes:

1. The making good to the general fund of any amount charged to it for the making good of a deficit in the parking account in the 4 years immediately preceding the financial year in question.
2. Meeting all or any of the cost of the provision and maintenance by the local authority of off street parking accommodation.

3. If it appears to the local authority that the provision in their area of further off street parking accommodation is unnecessary or undesirable, the following purposes-
- (i) Meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services, and
 - (ii) The purposes of a highway or road improvement project in the local authority's area.

The performance of the Council's parking account over the past twelve months (as at 30th June 2009) was as follows:

Report on Carlisle City Councils Parking Account
(Kept Under Section 55 of the Road Traffic Act 1984 – as amended)
for the financial year ended 31st March 2009

ON STREET:

	£	£
Balance Brought Forward		5,802.14
Income		
Residents Parking Excess Charges	(1,175.00)	
On street Parking Penalty Charges	(305,466.59)	
Total Income		(306,641.59)
Expenditure		
Road & Parking Bay Markings	24,157.66	
Stationary & Office Supplies	9,457.30	
General Equipment & Expenses	16,441.47	
PCN Adjudication Service & Legal Fees	8,225.68	
Patrol/CEO Contract Costs	216,351.40	
Business Unit & Management Support Costs	127,100.00	
Total Expenditure		401,733.51
Net (Surplus)/Deficit retained in Parking Account		<u>100,894.06</u>

OFF STREET:

	£	£
Income		
Off Street Parking Penalty Charges	(80,979)	
Recharges	(142,500)	
Pay & Display Ticket Income	(1,153,060)	
Contract Parking Income	(178,574)	
Total Income		(1,555,113)
Expenditure		
Employee Related	213,150	
Premises	177,706	
Supplies & Services	30,682	
Third Party Payments	96,243	
Support Services	94,300	
Depreciation	20,200	
Total Expenditure		632,281
Net (Surplus)/Deficit		<u>(922,832)</u>

The substantial surplus funds raised through the provision of off street parking facilities are used to off set the costs to the City Council of providing services to the public. Without these surplus funds those costs would have to be met through the Council Tax.

3.3 Statistical Performance

i) Penalty Charge Notices

As mentioned in Part 1 of this report, there is a national list of the parking contraventions for which CEOs are empowered to issue PCNs. Detailed below is a breakdown of the numbers of PCNs which Carlisle City Councils CEOs issued in respect of each type of contravention from 1st April 2008 to 31st March 2009. Figures from 1st April 2007 to 31st March 2008 have been included for comparison purposes.

Contravention Codes – On Street

On Street Parking Contraventions

Code	Contravention Description	PCNs issued 2007/2008	PCNs issued 2008/2009
01	Parked in a restricted street during prescribed hours	3,876	2,711
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	196	104
12	Parked in a residents' or shared use parking place without clearly displaying either a permit or voucher or pay and display ticket issued for that place	0	1
16	Parked in a permit space without displaying a valid permit	2	6
21	Parked in a suspended bay/space or part of bay/space	7	1
22	Re-parked in the same parking place or zone within one hour (or other specified time) of leaving	15	15
23	Parked in a parking place or area not designated for that class of vehicle	26	6
24	Not parked correctly within the markings of the bay or space	173	82
25	Parked in a loading place during restricted hours without loading	154	303
30	Parked for longer than permitted	2	1
35	Parked in a disc parking place without clearly displaying a valid disc	8,359	8092
36	Parked in a disc parking place for longer than permitted	82	101
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge	340	339
42	Parked in a parking place designated for police vehicles	15	5
45	Parked on a taxi rank	113	95
47	Stopped on a restricted bus stop or stand	97	53
48	Stopped in a restricted area outside a school	23	15
49	Parked wholly or partly on a cycle track	0	0
55	A commercial vehicle parked in a restricted street in contravention of an Overnight Waiting Ban	200	4
99	Stopped on a pedestrian crossing and/or crossing area marked by zigzags	N/A	0
Total number of On Street PCNs issued		13,680	11,934

Contravention Codes – Off Street

Off Street Parking Contraventions

Code	Contravention Description	PCNs issued 2007/2008	PCNs issued 2008/2009
70	Parked in a loading area during restricted hours without reasonable excuse	31	1
80	Parked for longer than the maximum period permitted	25	46
81	Parked in a restricted area in a car park	13	2
82	Parked after the expiry of paid for time	1,156	962
83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	2,130	2,085
84	Parked with additional payment made to extend the stay beyond time first purchased	0	0
85	Parked in a permit bay without clearly displaying a valid permit	96	89
86	Parked beyond the bay markings	196	119
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge	142	105
89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area	1	0
90	Re-parked within one hour (or other specified time) of leaving a bay or space in a car park	0	0
91	Parked in a car park or area not designated for that class of vehicle	31	11
92	Parked causing an obstruction	0	0
93	Parked in car park when closed	0	0
Total number of Off Street PCNs issued		3,821	3,420

The total number of PCNs issued in 2008/2009 by Carlisle City Council for both on street and off street parking enforcement was 15,354.

The tables below show how the PCNs issued in 2008/2009 have progressed as at 30th June 2009.

PCNs issued:

	On Street	Off Street	Total
Number of higher level PCNs issued	3,643	208	3,851
Number of lower level PCNs issued	8,291	3,212	11,503
Total number of PCNs issued	11,934	3,420	15,354

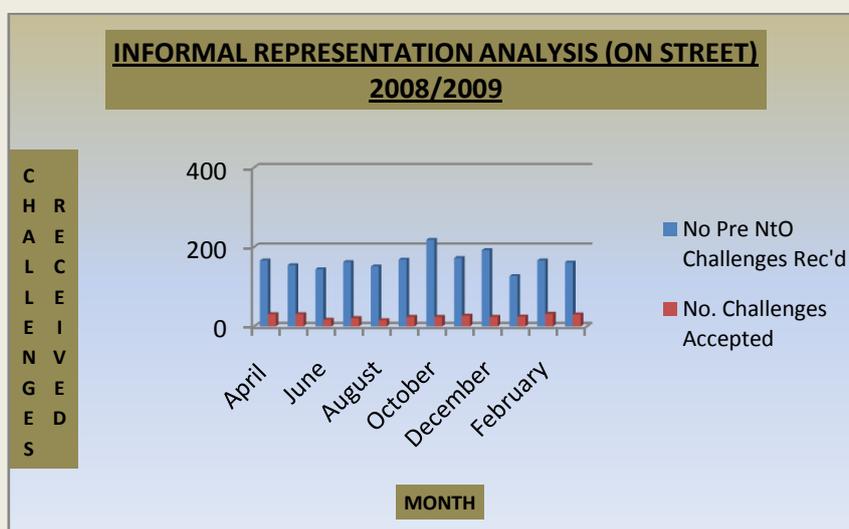
PCN issue has reduced over the past 12 months indicating the Councils policy of effective enforcement is working and that, as a consequence, less motorists are contravening the parking restrictions. The table above shows that the majority of PCNs issued were for the lower rate contraventions.

PCNs challenged:

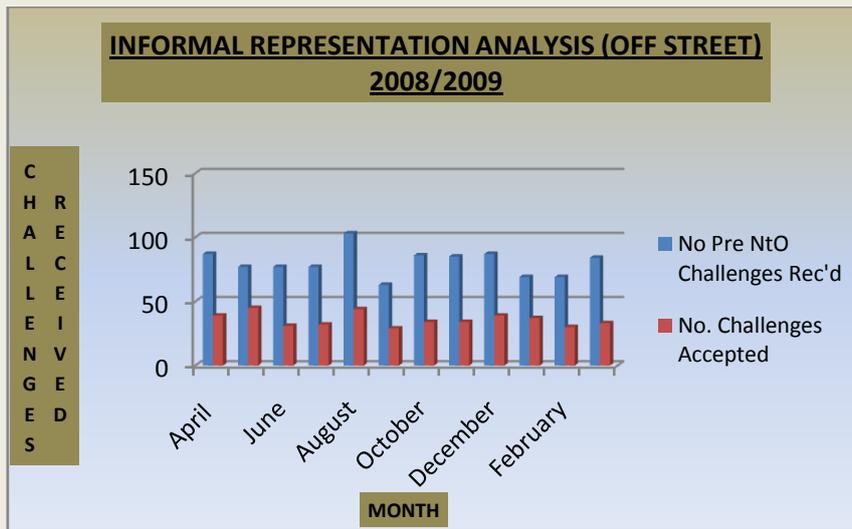
	On Street	Off Street	Total
Number of informal representations received (Pre NtO)	1981	964	2945
Number of informal representations accepted (cancelled)	302	427	729
Number of formal representations received (Post NtO)	172	48	220
Number of formal representations accepted (cancelled)	92	34	126

The graphs below show the challenges received on a monthly basis:

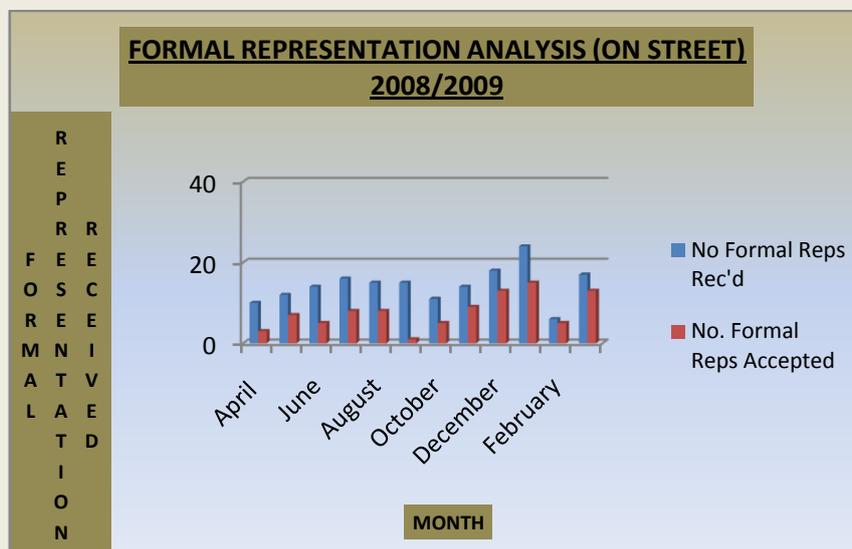
1. Informal representations received against on street PCNs.



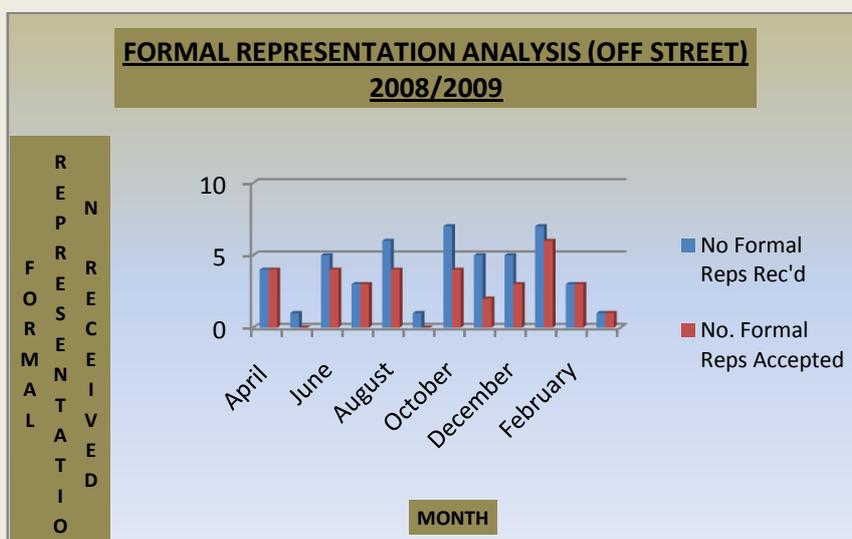
2. Informal representations received against off street PCNs.



3. Formal representations received against on street PCNs.



4. Formal representations received against off street PCNs.



PCNs paid:

	On Street	Off Street	Total
Number of PCNs paid at the discounted rate	8,718	2,433	11,151
Number of PCNs paid at the full fine amount	895	183	1,078
Number of PCNs paid at surcharged amount	300	64	364

PCNs cancelled:

This is the total number of PCNs cancelled at informal and formal representation and also for other reasons (CEO error, administrative error, etc).

	On Street	Off Street	Total
Number of PCNs cancelled	950	268	1218

PCNs written off:

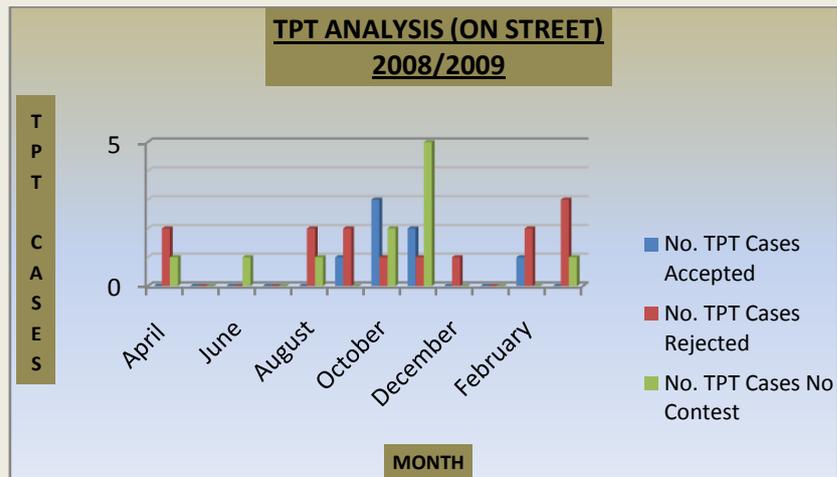
	On Street	Off Street	Total
Recovery Procedure Exhausted	965	138	1,103
Unable to Trace Keeper	97	16	113
Debtor Deceased	0	0	0

ii) Adjudication Cases (cases sent for adjudication between 1st April 2008 and 31st March 2009) sent to TPT for independent adjudication.

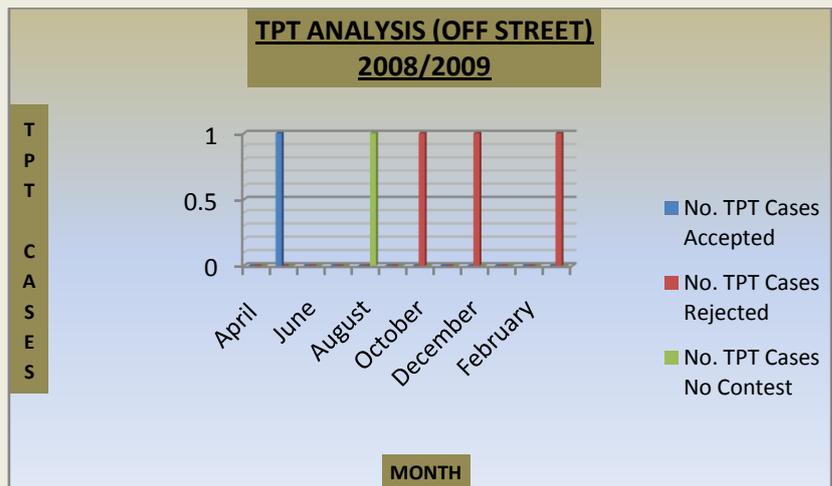
	On Street	Off Street	Total
Total number of cases received for adjudication	32	5	37
Number of cases accepted by adjudicator (cancelled)	7	1	8
Number of cases rejected by adjudicator (upheld)	14	3	17
Number of cases not contested by the Council (cancelled)	11	1	12

The graphs below show the TPT cases received on a monthly basis:

1. Adjudication cases received against on street PCNs.



2. Adjudication cases received against off street PCNs.



The TPT produces an annual report detailing its activities, the full TPT report details the results of all PCNs issued by all the participating Local Authorities outside London who conduct decriminalised parking enforcement or civil parking enforcement. Their report gives figures for each individual authority, which enables comparisons to be made between them. It also combines all of those figures to give a set of national 'all councils' statistics.

The full TPT report also contains details of the performance of the adjudication service itself, a forward by the Chief Adjudicator and useful information with regards to common themes which have arisen in adjudication cases, including details of specific relevant cases. It can be accessed on the services website www.trafficpenaltytribunal.gov.uk

The small number of appeals resulting in adjudication indicates that the PCNs are being properly issued and that appeals made against those PCNs are being properly dealt with in a thorough, fair and equitable manner and in accordance with the relevant legislative requirements.

SUMMARY

The Council hopes that the foregoing will have given an insight into

- The Council's parking policies
- Parking restrictions and why they are required
- The need for those restrictions to be enforced
- The method of enforcement
- The associated appeals and debt recovery procedures
- The Council's performance over the last twelve months

Hopefully some of the information given will either provide readers with a reminder of or will provide a useful update regarding parking regulations and help avoid incurring penalty charges.

Although the information contained in this report cannot be exhaustive, reference to the web sites mentioned will provide further detail for those who require it.

Amongst their other duties such as handling the processing of PCNs, appeals made against those PCNs and the recovery of outstanding penalty charge payments, the Council's Parking Administration staff also deal with;

- The issuing of permits for on street resident permit parking schemes
- The issuing of contract parking permits for the Council's off street car parks
- The issuing of dispensations for contractors permits (waivers) in respect of vehicles which will have to be parked in breach of parking restrictions (i.e. parked in excess of the permitted waiting time in a disc zone bay/permit holder exempt parking bay) in order to carry out works on nearby premises
- General enquiries regarding parking within the District of Carlisle, particularly from potential visitors to the area
- The issuing of information leaflets and making available of parking information on the Council's website

To contact them, please write to:

Parking Services
Carlisle City Council
Civic Centre
Rickergate
Carlisle
Cumbria
CA3 8QG

Telephone: 01228 817200
Fax: 01228 618595
E Mail: carparking@carlisle.gov.uk