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**CIVIL PARKING ENFORCEMENT**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To provide information to Members to enable them to understand the benefits and constraints of Civil Parking Enforcement followings its introduction.

**Summary**

2. This report reflects the Council's experience of Civil Parking Enforcement (CPE) since its implementation in Darlington on 31 December 2010. It has been requested by Members of Scrutiny and was part of the Scrutiny Committee work plan for 2011-2012. The report details the numbers of penalties issued, income received, details of appeals, comparison to the year prior to CPE and also details lessons learnt.

**Recommendation**

3. Members are invited to note the contents of this report.

**Richard Alty, Director of Place**

**Background Papers**

- (i) The Traffic Management Act 2004
- (ii) DfT Operational Guidance to Local Authorities – Parking policy and Enforcement
- (iii) Darlington Borough Council's Civil Parking Enforcement Procedures
- (iv) Cabinet Report 6 January 2009
- (v) Cabinet Report 2 June 2009

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S17 Crime and Disorder	CPE plays a significant role in discouraging illegal parking and creating order on the highway network.
Health and Wellbeing	CPE discourages hazardous parking reducing the risks of accidents and promotes a safer network for all users.
Carbon impact	CPE forms part of the balance of activities of demand management in sustainable transport policy. CPE also assists to maintain the free flow of traffic and avoid congestion thereby reducing carbon impact.
Diversity	Civil Parking Enforcement (CPE) will increase equality of opportunity for the disabled travelling public
Wards Affected	CPE affects all Wards
Groups Affected	CPE affects all road users
Budget and Policy Framework	This report does not represent a change to Policy
Key Decision	N/A
Urgent Decision	N/A
One Darlington: Perfectly Placed	N/A
Efficiency	There are no issues which this report needs to address

## MAIN REPORT

### Background

4. The Traffic Management Act 2004 imposes a duty, on all local Highway Authorities in England, to secure the expeditious movement of traffic on the authority's road network and on road networks for which another authority is the traffic authority. This effectively means that local traffic authorities should ensure, as far as is reasonably practicable, that the transport network is managed effectively to keep traffic moving and reduce congestion. The Act gives greater power to Authorities to co-ordinate planned activities such as gas, water, electricity and telecommunications works on the highway and manage those unplanned events, such as emergencies, that occur from time to time.
5. Part 6 of the Act enables a Local Authority in England, provided it has been given the relevant power by the Secretary of State, to enforce on-street parking contraventions. Darlington Borough Council is operating Civil Parking Enforcement (CPE) in all areas of the entire Borough area with the exception of the trunk roads (A1(M) and A66) which remain the responsibility of the Highways Agency.
6. One of the Council's key transport objectives is to manage congestion. CPE is an important component of effective traffic management and improving traffic flow. In addition, poor, dangerous and obstructive parking can pose a danger to pedestrians by blocking pavements and forcing them onto the roads, often reducing visibility for other motorists and impeding traffic flow. This is particularly the case in the areas around schools where there is potential for serious injury to children through inconsiderate and dangerous parking. Through CPE all

residents, visitors, schools and businesses benefit from better enforcement of parking regulations and a reduction of hazardous and obstructive parking.

7. Prior to CPE the number of Fixed Penalty Notices issued by The Police reduced significantly which led to a higher level of illegal parking. The parking wardens were frequently subject to complaints from the public and businesses about on street parking problems and had to advise them that such matters were not within the remit of the Council and were the responsibility of the Police. The public, understandably, could not countenance why a Council enforcement officer could issue a parking ticket in a residents parking bay but could not on a double yellow line on the same road.
8. While enforcement of parking and loading restrictions is now the responsibility of the Council the police remain responsible for issuing fixed penalties for endorsable offences such as dangerous parking, obstruction, failure to comply with police "no waiting" signs placed in emergencies, and any vehicle where security or other traffic policing issues are involved, including the need to close roads or set up diversions. These offences remain criminal and can only be enforced by the police through the courts, with fines accruing to the exchequer.
9. CPE gives the Council the responsibility for enforcing on street parking restrictions (such as double yellow lines, no loading restrictions etc). This is in addition to the enforcement of on and off street parking enforcement (car parks, residents parking areas etc) which was carried out by the Council and was ultimately dealt with through the Magistrates Courts as a criminal matter prior to CPE. Parking offences at pedestrian crossing zigzag lines can be enforced by both the Police and the Council but any action by the police will take precedence.
10. Enforcement is carried out by the Council's Civil Enforcement Officers (CEOs) who issue Penalty Charge Notices (PCNs) which are civil debts. Full details of the Civil Parking Enforcement Procedures are published on the Council's website. This ensures that all enforcement is fair and transparent to all road users. The document details how the Council approaches CPE; what constitutes a contravention and provides full information on the appeals process. It is a living document and is regularly updated according to changing needs (see paragraph 32 on Lessons Learned).
11. The Civil Parking Enforcement section is split into two distinct teams as is required by Department for Transport guidance. One team deal with operational enforcement with the various roads where restrictions are in place being divided into beats for individual CEOs. The other team deals with processing of PCNs and any appeals that arise. This separation is designed to ensure that the appeals process is carried out, and observed to be, impartial from the enforcement process.
12. A motorist wishing to contest liability for a penalty charge may make initial representation to the Council and, if these are rejected, may have grounds to appeal to an independent adjudicator through the Traffic Penalty Tribunal (TPT). The adjudicator's decision is final but there is right of further appeal on a point of law through the High Court.

13. If a penalty charge remains unpaid after the relevant time and processes it becomes a civil debt due to Darlington Borough Council and enforceable through a streamlined version of the normal civil debt recovery process in the County Court. This process involves registering the debt with the Traffic Enforcement Centre (TEC) which is based in Northampton. Ultimately debts that are not paid are placed in the hands of the Council's appointed Bailiffs. Following a detailed tendering process, Equita are now the Council's approved Bailiffs.
14. CPE is not a profit making scheme. Income from PCNs must be used to finance the enforcement and adjudication systems. The Council is required to keep separate accounts of PCN income from on-street enforcement and from off-street enforcement and any surplus is to be used for further investment in the Council's transport and environmental policies and to promote Local Transport Plan objectives.

### **Implementation of Civil Parking Enforcement**

15. Civil Parking Enforcement came into operation on 31 December 2010. This was the culmination of two years of planning and activities by Council officers that was precipitated by the decision to prepare for civil enforcement made at 6 January 2009 Cabinet. At a meeting on 2 June 2009 Cabinet agreed to allow officers to apply for civil enforcement powers.
  16. It was originally planned to implement CPE in late 2009/early 2010 but the Department for Transport changed their guidance and critically, the application form, which meant that the Council had to resubmit their application leading to a significant delay.
  17. The process to implement CPE resulted in significant changes to the legal orders that sit behind the on-street restrictions and make them enforceable. Prior to the introduction of CPE there were in excess of 400 separate legal orders covering various types of restrictions in specific parts of the town. These orders were replaced by five orders that covered the whole of the Borough and which came into force on 25 August 2010. The orders were arranged into different types of restrictions:-
    - (a) Off-Street Parking Places – the Council's off street car parks.
    - (b) On-Street Parking Places – paid for on-street parking, disabled bays, limited waiting and loading bays
    - (c) Residents Parking – covering the 15 resident parking zones.
    - (d) Prohibition and Restriction of Waiting and Loading - double and single yellow lines, no loading restrictions, clearways.
    - (e) Moving Traffic – speed limits, one way orders, height and weight restrictions, banned turns etc.
  18. The business case that supported the application identified that some additional staff resources would be required to support the additional areas that the Council would be responsible for.
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Before CPE the Council was responsible solely for the enforcement of all off street car parking, on street pay and display and residents parking zones. This was undertaken by 10 staff patrolling the streets and car parks. There was also a small administrative team consisting of a team manager and three admin staff who processed excess charge notices, dealt with appeals and prepared cases for the Magistrates Courts.

19. Prior to the introduction of CPE officers carefully studied CPE schemes in neighbouring and other Council areas. It was clear that the issue of penalty charge notices (PCNs) radically increased after the introduction of CPE and then started to reduce in subsequent years as members of the public became accustomed with new arrangements. In the light of this a decision was taken to not follow the general pattern of greatly increasing the number of enforcement staff and only two new senior civil enforcement officer posts were created. A vehicle was also purchased to enable targeted enforcement including the outlying areas of the Borough and outside schools. A separate section was created for the processing of penalty notices and dealing with appeals and although two additional posts were created, in addition to the staff dealing with that function under the old parking system, only one such post has been filled to date.
20. A new IT system was commissioned to efficiently manage the issuing of FPNs and permits. Staff from the processing and appeals team were trained to use the system and it has been successfully introduced. Enforcement staff were issued with new hand held equipment and were also trained in its use.
21. Civil Parking Enforcement requires a higher level of accuracy in terms of how the lining on street corresponds with the description of the location within the legal orders. This necessitated all of the restrictions in the Borough being manually checked and any discrepancies resolved in the new orders. Virtually every restriction was repainted on street to ensure that they were enforceable and to reduce the risk of challenge.
22. An extensive and lengthy Talking Together consultation was undertaken commencing with a press release and lasted between February and May 2009. Residents, businesses and other interested parties were asked for their views on the proposed introduction of CPE. There was general support for the proposals. Further press releases and Town Crier articles were produced on the run up to CPE commencement in December 2010. In the two week period prior to the introduction of CPE the parking wardens issued 1,054 written warning notices to motorists who were parked in areas that would be caught by CPE (on yellow lines, in loading bays etc) to advise them that CPE was about to commence on 31 December 2010 and that such contraventions would result in the issue of a penalty charge notice after that date.
23. A budget of £700,000 was allocated to implement CPE, comprising £300,000 of Local Transport Plan funding and £400,000 of prudential borrowing. The project came in under budget, costing in the region of £550,000, primarily as a result of additional staff costs being managed within existing budgets. This has meant that the Council has reduced the prudential borrowing requirement to £250,000.

## **Operation of Civil Parking Enforcement**

24. CPE has now been in place for 15 months and after some initial, and perhaps inevitable, negative feedback, has become well established. Staff are accustomed to the new arrangements and have adapted well to their additional duties and responsibilities. There are noticeably fewer cars parking illegally, in an unsafe or obstructive manner within the Borough. This is to be welcomed as we do not seek to punish drivers; we would rather they comply with the restrictions than issue a fine.

### ***Penalty Charge Notices Issued***

25. As expected the number of penalty notices issued greatly increased when CPE commenced. By way of comparison, in the first three months of 2010 (ie pre CPE) a total of 3,482 excess charge notices were issued and of these 1,234 were for on street contraventions such as residents' parking zone and on street parking bay contraventions. In 2011, following the introduction of CPE, this total rose to 5,550 of which 4,694 were for on street parking contraventions, including double yellow line, and no loading contraventions.
26. As anticipated, this number started to reduce as motorists became more observant and compliant with on street regulations. In the last three months of 2010 the total number of excess charge notices issued was 2,990, of which 1,010 were for on street contraventions compared to the last three months of 2011 when 4,237 penalty charge notices were issued, of which 2,685 were for on street contraventions. A full two year comparison is appended at **Appendix 1** for Members' attention.
27. Members will note the shift in emphasis following CPE from penalties in respect of off street parking (ie car parks) to penalties in respect of on street parking. As expected, the inception of CPE changed the enforcement focus to single and double yellow lines, bus stops, zig zag lines at schools, taxi ranks, areas with loading restrictions etc. In January 2011, of the 2,028 on street PCNs issued, 1,067 of these were for contraventions relating to yellow lines. By June 2011, of the 865 on street PCNs issued, 382 were for contraventions relating to yellow lines. It is expected that the issue of penalty charge notices in totality will further reduce in the coming year as motorists become ever more compliant.

### ***Income received from Penalty Charge Notices***

28. A month by month breakdown of the income received in 2010 and in 2011 has been appended at **Appendix 2** for Members' attention. This reflects the increase in penalty charges issued for contraventions however the gap increasingly narrows between 2010 and 2011 from the January 2011 high. The only exception to this is a comparison of December 2010 and 2011 figures, however this can be explained because of the mild winter in December 2011 compared to the severe weather conditions in December 2010 when parking enforcement staff were largely occupied in assisting motorists rather than issuing penalty notices.

### ***Comparison of Appeals Received 2010-2011***

29. A comparison of appeals received between the two years has been appended at **Appendix 3** and shows only a marginal increase since the inception of CPE. Fewer appeals have been allowed and more rejected under CPE and this is largely attributable to the more clear guidelines set out nationally of valid reasons for appeal. Fewer cases are also now being won by appellants to the Traffic Penalty Tribunal (TPT). Cases referred to the Bailiff for non payment are slightly increased on the number of successful cases dealt with at the Magistrates Courts. The benefit to non payers is that they are no longer criminalised for non payment. Prior to any case being handed to the Bailiffs officers will, when asked, arrange for payment plans.

### ***Requests for Changes to Waiting Restrictions***

30. The Council has received a substantial number of requests for changes to waiting restrictions and there are currently 80 outstanding requests though this did peak at around 100 requests. The two main reasons for this unprecedented peak are that restrictions are now being enforced that have rarely been enforced in the past leading to requests for changes or complete removal and the fact that the Council did not process any new restrictions (other than those that were required for highway schemes) in the two year planning and implementation phase prior to CPE being implemented.

### ***CPE Budget***

31. Contrary to popular belief CPE is not, and cannot be, a way of making money for the Council. As detailed in paragraph 11 of this report it cannot be a profit making scheme and any income over and above the cost of implementing the service is ring fenced to specific traffic related issues. CPE generally costs local authorities more than the income it generates in the initial years and this was one reason for the restraint in recruiting additional staff. It is anticipated that in the financial year 2011-12 there will be a break even situation, based purely on this year's costs in respect of enforcement, processing and appeals. This does not take into account the set up costs for the scheme or associated costs relating to other service areas.

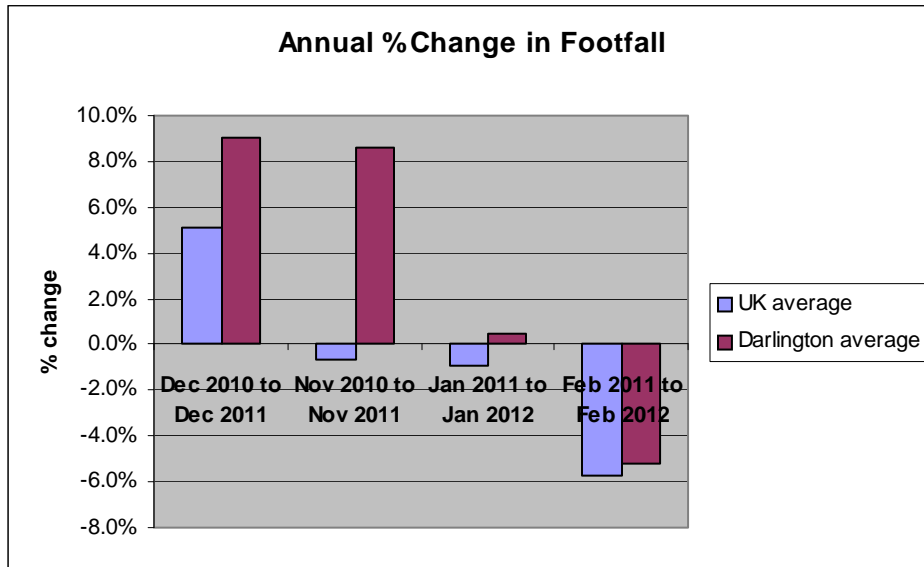
### ***Lesson Learned***

32. The last year has been a learning curve for all involved in CPE. There was great initial resistance to on street enforcement in the town centre area, particularly by some local traders who claimed that CPE was damaging the town centre economy. We did consider that one area that did require a rethink was the observation time for loading in the Town Centre. At the start of CPE the observation time for loading and unloading (ie the length of time a CEO will observe to see whether the activity is taking place or not) was 10 minutes. Following requests from local traders this has now been amended to 20 minutes in the specified areas. This is in recognition of the greater walking distances in the Town Centre between areas where loading is permitted and the shops and businesses that the goods are being taken to or received from.

33. As detailed earlier in this report head cams have been purchased and are in regular use following initial increased verbal threats and abuse levied at CEOs. This has had a deterrent effect and also allows office based parking staff to view incidents when complaints are received.
34. Critics of CPE have accused the Council of being over zealous in our enforcement style. This is something we strongly refute and often one person's penalty charge notice is the successful outcome to another person's complaint. While we do have regular "beats" covering main areas of parking within the town centre and outlying areas we have learnt to better target our enforcement to deal with a range of conflicting demands from the public. One example of this is around school areas at the beginning and end of the school day to deal with inconsiderate and often dangerous parking near to school entrances. As hot spots are identified we respond accordingly, albeit this is a constantly moving target and requires us to be reactive to changing priorities. Our CEOs have also, where appropriate, offered advice rather than automatically issuing a PCN (though this too has resulted in complaints from residents who believed we were not taking a sufficiently robust stance!).
35. We have also made changes to restrictions where appropriate. One example of where we have listened to business is in the areas to the east of Northgate. Businesses on Northgate had complained that the heightened level of enforcement in that area was making it difficult to trade and asked us to consider the provision of additional parking for customers. This included the area close to Northgate United Reform Church. We have now introduced additional limited waiting in the area and increased all of the limited waiting from 1 hour to 2 hours to allow for longer stays. An example of how we have assisted residents is on Salisbury Terrace where a single yellow line day time parking restriction had been in place since the 1970s. The restriction was rarely enforced by Durham Police and residents had consequently got used to parking on the yellow line without fear of being issued a ticket. A number of residents did receive tickets in the first few months after CPE was implemented and complained, asking for the line to be removed. We have now amended the restrictions by reducing the length of daytime restrictions and the changes seem to have been welcomed by residents.
36. There are still some areas that attract negative comments. Businesses across the town centre, and particularly in Skinnergate and Grange Road, have expressed their dissatisfaction in the way that we deploy enforcement staff. They have commented that CEO's have apparently shown little flexibility when it comes to ticketing slightly beyond the pre-paid limit in pay and display areas. They are concerned that this has the potential to damage Darlington's reputation, appearing less welcoming and putting off people visiting in future. CEO's actually operate to well-defined procedures and many parking restrictions include an observation period that must expire before a penalty is issued. In some cases these observation periods have been extended following consultation with traders. Concerns have also been expressed regarding the introduction of parking charges on Sundays and the price of parking tariffs. There are also wider issues to consider, around pay on exit systems, as many businesses have said they have lost sales at the last minute due to customers having to leave the shop to rush back to their car. These issues will be considered as part of the review of the Parking Strategy that will be carried out in the next few months.



37. In relation to Town Centre **footfall** – figures overall for 2011 were down just 1% compared to 2010, which very much mirrors the position nationally – so there is no evidence in footfall statistics of any impact caused by CPE on town centre visitor numbers. In relation to recent individual months comparison between 2010 and 2011, Darlington compares very favourably with the UK average – see chart below:

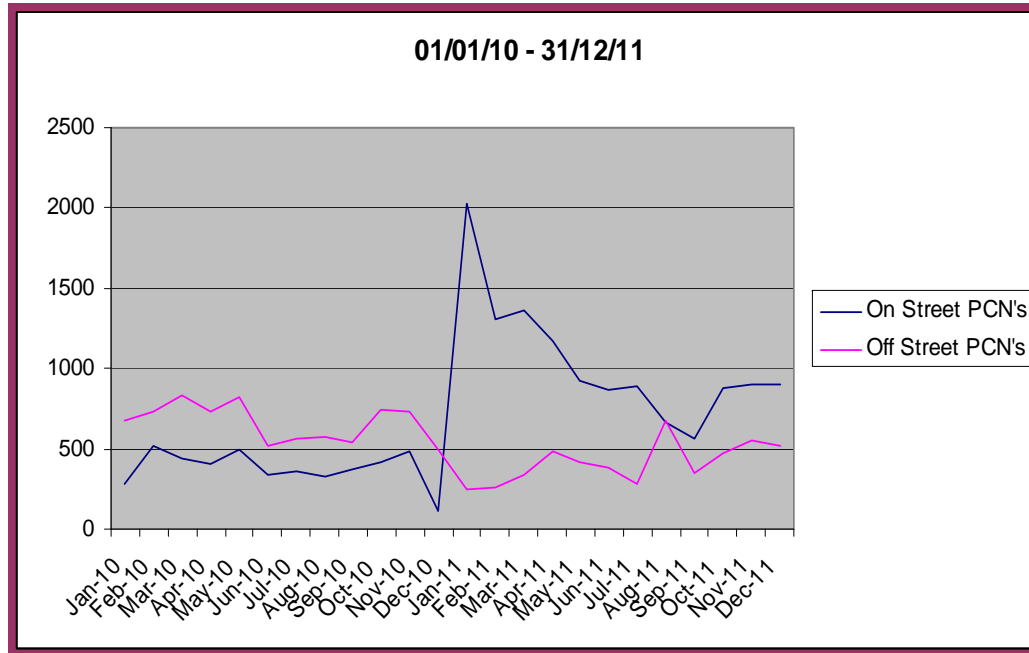


## Conclusion

38. In terms of CPE it is still early days for Darlington Council. Local and national cases at the TPT continue to inform staff of the approaches to appeals and incidence of appeals and complaints in specific areas are discussed at monthly meetings of all parties involved in CPE, including Policy and Highways. The Council is required to produce an annual report which provides details of much of the information contained within this report in terms of notices issued, appeals, income etc and this will be collated during April 2012 ready for publication on the Council’s website in May 2012. While there has been some press attention, this was expected and while CPE was never likely to gain universal approval, the bedding in process has been relatively successful and has contributed to less on street contraventions and freer flowing traffic.

**EXCESS CHARGE NOTICES/PENALTY CHARGE NOTICES ISSUED 2010 – 2011**

**Appendix 1**

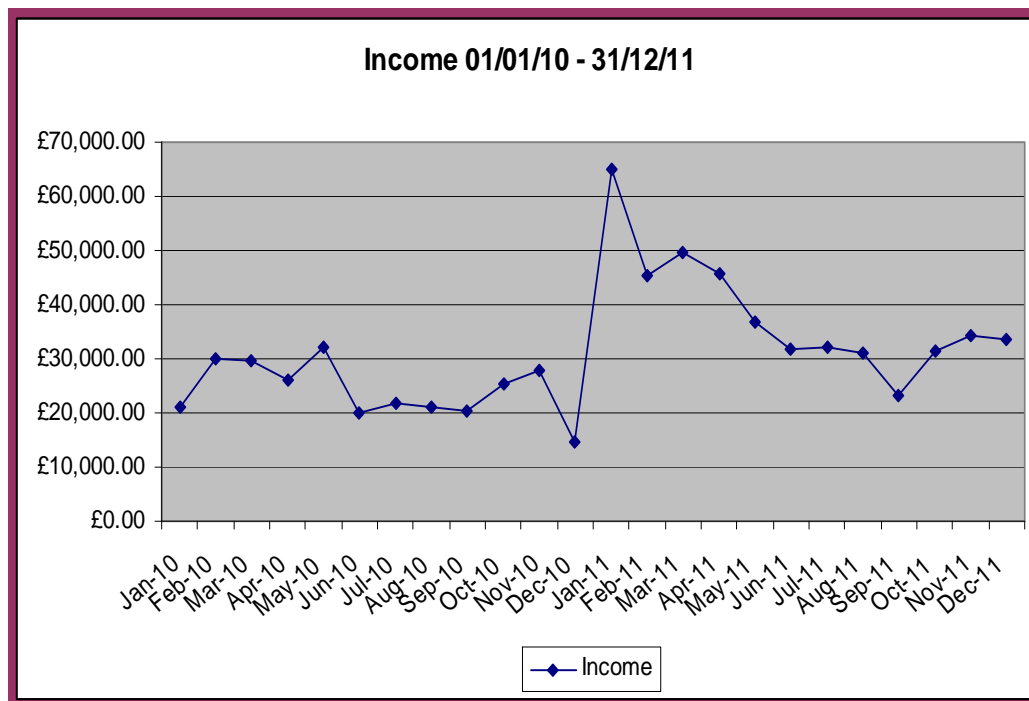


<b>2010</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
On Street ECN's	280	513	441	409	495	341	357	321	368	414	480	116	<b>4936</b>
Off Street ECN's	681	737	830	734	819	513	561	578	539	747	733	500	<b>7571</b>

<b>2011</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
On Street PCN's	2028	1303	1363	1166	927	865	891	663	567	884	906	898	<b>12461</b>
Off Street PCN's	252	261	343	486	421	382	281	676	352	477	554	521	<b>5006</b>

**INCOME RECEIVED FROM ECNs/PCNs 2010 – 2011**

**Appendix 2**



<b>2010</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>TOTAL</b>
Income Received	£21,232	£29,908	£29,550	£26,168	£32,175	£20,154	£21,637	£21,190	£20,442	£25,180	£27,680	£14,807	£290,123
<b>2011</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>TOTAL</b>
Income Received	£65,098	£45,377	£49,624	£45,711	£36,703	£31,821	£32,289	£31,140	£23,102	£31,424	£34,210	£33,361	£459,860

**APPEALS 2010- 2011**

**Appendix 3**

<b>.2010</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
Appeals Received	316	371	477	416	342	374	289	259	269	434	482	216	<b>4245</b>
ECN Appeals Allowed	245	263	293	284	256	188	214	191	227	301	291	152	<b>2905</b>
ECN Appeals Rejected	71	108	184	132	86	186	75	68	42	133	191	64	<b>1340</b>
Successful prosecution in Magistrates Courts	34	42	42	47	51	31	31	40	30	30	37	23	<b>438</b>

<b>2011</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>
Appeals Received	456	451	420	374	389	366	319	393	303	288	379	296	<b>4434</b>
PCN Appeals Allowed	221	213	204	232	218	200	160	228	143	236	215	205	<b>2475</b>
PCN Appeals Rejected	235	238	216	142	171	166	159	165	160	52	164	91	<b>1959</b>
Successful TPT cases for DBC		2	3	2	0	1	3	0	0	0	2	0	<b>13</b>
Unsuccessful TPT cases for DBC	3	1	2	0	1	0	0	0	0	0	0	0	<b>7</b>
Referrals to Bailiff	76	31	42	72	65	75	64	59	3	No info	No info	No info	<b>487</b>

Reasons for unsuccessful cases for DBC at TPT:

- Lines and signs incorrect/not standard
- DfT approval seal not produced to TPT
- Adjudicator ruled driver was unaware that Darlington was a special Enforcement area
- Adjudicator ruled pay by phone system was complicated