



PCNs can be costly and time consuming and the issue is getting worse. Don't let it become your personal horror story, says *John Charles*

NEED TO KNOW

- Procedures are confusing, complicated and differ
- Tight deadlines apply when deciding to pay or appeal
- Experts explain complex appeal processes for fleets

anaging fines related to parking offences can prove to be a legal, financial and HR administration nightmare for fleet decision-makers and company car and van drivers alike.

The system is complex and confusing while the issuing of penalty/parking charge notices (PCNs) and any subsequent appeal process involves a myriad of different organisations. And it's getting worse, with leasing companies reporting year-on-year increases in PCNs (FN50 2014).

"The whole system is a mess," says John Pryor, chairman of ACFO and fleet and travel manager at Arcadia.

"Regulations and the bodies involved are very different, in respect of PCNs issued by local authorities, or as a consequence of a parking offence being committed in a private car park. Legal action always provokes worries.

"Fines must be taken seriously, but the processes involved are both confusing and complicated, and deadlines apply to the process of identifying drivers in company vehicles and paying or appealing a fine."

A PCN is issued to a vehicle's owner, who is legally responsible for paying the fine, although there are special rules for short-term hire vehicles: the hirer will usually be asked to sign a statement of liability for PCNs.

In respect of a company vehicle, the PCN will be issued to the registered keeper of the vehicle after information has been obtained from the DVLA by the local authority or company managing the private car park.

Fleets generally have one of two choices if they are leasing vehicles: either instruct the leasing company to automatically pay the fine, which reduces the admin burden but removes the option to appeal (potentially costing them thousands of pounds in unnecessary fines and admin charges), or have them transfer liability to the company, which gives them the opportunity to appeal or pass the fine onto the driver, but increases the admin burden.

72%

Proportion of London parking fine appeals that are successful, according to FTA survey

550-600

Number of appeals lodged per week across England and Wales

8m

Number of parkingrelated PCNs issued annually

56

Formal challenge period (days) for PCNs issued for offences on public land Being able to appeal certain PCNs can make financial sense if the company receives a large number of parking fines. Around eight million parking-related PCNs are issued a year, split equally between London and the rest of the country.

A Freight Transport Association survey earlier this year found that 72% of parking fine appeals in London are successful.

In relation to parking on private land, 550 to 600 appeals are lodged per week across England and Wales with about half won.

Gerry Keaney, chief executive of BVRLA, says: "We know that the vehicle rental and leasing industry has to deal with fines and charges issued by a huge variety of private, national and regional organisations.

"Nearly all of them take a different approach to the way in which penalties are issued, payments are made or appeals are handled, which puts a major administrative and cost burden on our members and their customers."

He adds: "The BVRLA continues to call for a standardised approach to fines and penalties that would see a single, streamlined process for paying or appealing against fines.

"We also don't believe it is fair that a person appealing against a fine should automatically forfeit the ability to pay that fine at the discounted rate."

Correctly-worded contracts of employment are critical, to enable employers to identify company vehicle drivers as responsible for a fine and then take action to recoup the cost and potentially take disciplinary action, says Rebecca Lynch, partner in the employment team at law and professional services firm Gordon Dadds.

"If employers give staff a contract of employment with the right flexibility then they should not have a problem in identifying the driver responsible for the PCN and enforcing their payment of the fine, which would normally be deducted from their pay, either in one lump sum or perhaps over time if the payment is large," she says.

Here we outline the system for parking fines issued by local authorities and companies managing private car parks and the appeal process for each.

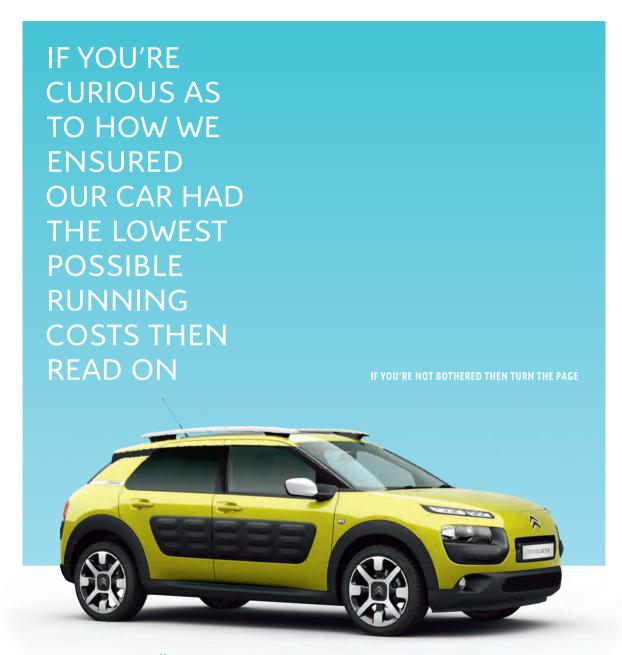
PARKING TICKETS ON PUBLIC LAND

In most parts of the country, including the whole of London, PCNs are issued by civil enforcement officers, also known as traffic wardens.

In areas where a local authority does not have civil parking enforcement powers, parking is enforced by the police or police-employed traffic wardens.







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"LEGAL ACTION ALWAYS
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CONFUSING AND COMPLICATED"

PCNs can be issued for many reasons, including: parking on yellow lines, in a permitonly zone without a clearly displayed valid permit, in a council-owned car park or on a metered space if the correct charge has not been paid or

metered space if the correct charge has not been paid or parking ticket not displayed and where parking is banned, for example, on white zig-zag lines or on the pavement.

Employers have a choice of paying the parking fine or identifying the driver to the local authority and transferring liability. In the latter case, ACFO recommends giving advice to the driver on paying the penalty or disputing the fine.

A PCN is a civil offence and can be issued by post, by hand or applied to a vehicle windscreen. By law, the PCN must be issued within 28 days of when the traffic warden saw the parking rule was broken or it was caught on camera.

Drivers can challenge the fine or have 28 days to pay: a discount of 50% is available for payment within 14 days (21 days if vehicle is caught on camera and the PCN is posted).

Since April, drivers have a 10-minute 'grace' period during which they cannot receive a fine if they slightly over-stay their time limit. However, it doesn't apply to parking on yellow lines or in permit bays.

If a driver does not believe the PCN should have been issued, an appeal must be lodged with the council within 28 days of the date of issue. The 'informal challenge' should be made in writing and include evidence for the appeal. If that is rejected the next step is a 'formal challenge', which the local authority has 56 days to consider.

If the appeal is dismissed, a notice of rejection will be received giving details of the next stage of the process. Outside London that is to the Traffic Penalty Tribunal (TPT) for England and Wales; in the capital, it's the London Tribunals. Appeals must then be lodged within 28 days.

Appeals to the TPT can be made in three ways – in writing, online or by telephone – and there are three types of hearing: e-decision (includes postal decision/without a hearing), telephone hearing or face-to-face hearing.

London Tribunals conducts appeals in person or by post. The Tribunal adjudicator will gather evidence from both parties and then issue their decision with the full charge due if the appeal is lost.

After the review decision, either side may apply to the High Court for a judicial review but only if they think the adjudicator has made a mistake of law.

Appeals in Northern Ireland are heard by the Northern Ireland Traffic Penalty Tribunal and in Scotland by the Scottish parking appeals service.

PARKING TICKETS ISSUED BY THE POLICE

Parking tickets issued by the police are called fixed penalty notices (FPNs) and handled under the criminal justice system. Police forces do not have the power to make offenders pay

711.700

Number of fixed penalty notices issued for speeding in 2013

£1,000

Maximum fine for a company that fails to provide speeding driver's details

Period (days) within which most fines are discounted. From 14 to 28 days, they can double



fines on the spot. Penalty notices are enforced through the local magistrates court.

If committing a parking offence, a police officer or traffic warden will fix an FPN to the vehicle. Details of the offence will be on the notice.

If payment is not made, a notice to owner will be issued – details obtained from the DVLA – reminding the recipient of the payment due or offering a magistrates court hearing.

If further ignored, the penalty will be registered as a fine and the driver ordered to pay one and a half times the original charge.

If the driver does not agree that a parking offence has been committed they can object informally by sending a letter to the central ticket office in the area where the notice was issued. In the case of rejection, a further hearing can be asked for which will result in a summons to attend a magistrates court.

PARKING TICKETS ON PRIVATE LAND

A ticket for illegal parking on private land, for example in a shopping centre, retail park, hospital or other private-owned car park, can be left on the vehicle's windscreen or sent through the post to the registered keeper.

Parking tickets issued on private land can be issued for non-payment, staying longer than the time paid for or parking in the wrong place.

If the parking rules are broken, private landowners can issue a PCN and recover the losses they've suffered.

Most parking enforcement companies are members of an accredited trade association, usually the British Parking Association or Independent Parking Committee, and are obliged to follow strict rules introduced in the Protection of Freedoms Act 2012.

If a vehicle is captured on CCTV, an accredited trade association parking company must, by law, send a parking ticket to the vehicle's owner within 14 days, starting from the day after the parking incident took place. The company responsible for managing the car park is legally entitled to obtain details of the vehicle's owner from the DVLA.

It can pursue the vehicle's owner for non-payment although, as with local authority parking, liability can be transferred to the driver by supplying the car park operator with their details.

When the parking company contacts the registered keeper, it issues a parking ticket called a 'notice to keeper' – whereas a parking ticket received by a driver face-to-face is called a 'notice to driver'.

In the notice to keeper, the keeper is asked to name the driver or pay the parking charge.

If the keeper doesn't respond within 28 days of getting the notice, the parking company can recover the unpaid amount by taking the keeper to court. PCNs should be paid within 28 days with a discount of at least 40% if paid within 14 days.

Mercedes-Benz Intelligent Drive

New safety technology is dramatically reducing the risk faced by company car drivers and other road users

riving a company car can be one of the most dangerous aspects of working in the UK. The startling statistics reveal the risks faced by employees behind the wheel, with company car drivers involved in 50% more crashes than ordinary drivers.

Work pressures, fatigue and ever-busier roads all contribute to the greater risk faced by company car drivers, but Mercedes-Benz continues to define new standards for driver and vehicle safety.

Mercedes-Benz Intelligent Drive offers a range of safety systems and technologies that are designed to make driving easier and more relaxed, and offer peace of mind to fleet managers, knowing their drivers are in safer hands.

Collision Prevention Assist, for example, is a radar-based warning system designed to combat one of the most common types of collision: driving into the back of the car in front. Fitted as standard across the entire range of

Mercedes-Benz vehicles, the system alerts the driver with a red triangle on the dashboard and an audible warning if their car gets too close to the vehicle ahead.

Tiredness is a serious contributing factor to many accidents, especially on motorways. This is why Attention Assist plays an important role in helping to prevent collisions.

Radar-based monitors analyse how a driver acts and steers in the early miles of a trip. This becomes a benchmark measurement against which fatigue-related changes in driving style can be identified. If Attention Assist calculates that the driver is flagging, it sounds a warning alarm and flashes up the symbol of a coffee cup on the dashboard: it's time to take a break.

The rising number of vehicles on the road can increase the general risk for drivers. Put simply, the more cars competing for space on busy motorways or in congested urban environments, the greater the potential for an incident to occur.

Helping to protect drivers is Distronic Plus, a radar-based cruise control system that is a cost option available on models from the A-Class to S-Class. Distronic Plus automatically adjusts the car's speed in order to maintain a safe distance from the vehicle in front. The system provides a visual warning when the safe distance becomes too narrow and also an audible warning if there is the risk of a collision. It can even brake automatically, if that's what it takes to avoid a collision; you never know when the car in front might brake suddenly.



If Attention Assist calculates that the driver is flagging, it sounds a warning alarm and flashes up the symbol of a coffee cup on the dashboard

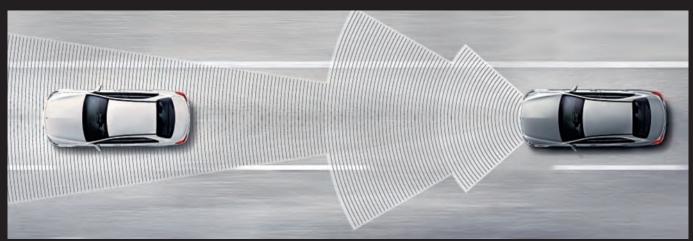
Work pressures, fatigue and ever-busier roads all contribute to the greater risk faced by company car drivers, but Mercedes-Benz continues to define new safety standards

>> To discover more about the full range of Mercedes-Benz models, visit the Mercedes-Benz Fleet Comparison Tool.

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Distronic Plus automatically adjusts the car's speed in order to maintain a safe distance from the vehicle in front







"IF FLEET MANAGERS ARE
UNABLE TO INSTANTLY IDENTIFY A
DRIVER, PERHAPS IF THEY WERE AT
THE WHEEL OF A POOL VEHICLE,
THEN THEY MUST TURN DETECTIVE"

If appealing against a PCN, drivers should initially write to the parking company, if it is a member of an accredited trade association, stating reasons why payment is not due, such

as poor signage.

If unsuccessful, a formal appeal can be made to Parking on Private Land Appeals (POPLA), if the parking company is a member of the British Parking Association.

An appeal to POPLA should be lodged within 28 days of the operator's notice of rejection. Evidence from both parties will be examined by an assessor. If the appeal is lost, the full parking charge is due within 14 days.

If the parking company is a member of the Independent Parking Committee, an appeal can be lodged with the Independent Appeals Service.

Appeals must be lodged within 21 days of the operating rejecting the initial appeal. If the appeal is lost the full parking charge is due.

If in possession of a ticket in a car park from a parking company that isn't an accredited trade association member, drivers can write to the organisation stating their reasons as to why the ticket is unfair.

However, a non-accredited trade association parking company is not allowed to obtain details of the registered keeper from the DVLA, will not have contact details and can't take a driver to court – unless contact details are included in any correspondence in which case the parking company could take court action.

SPEEDING FINES

Police forces in England and Wales issued 711,700 fixed penalty notices for speeding in 2013, the most recent year for which official records are available.

If an employee is caught speeding in a company vehicle, the registered keeper will receive a notice of intended prosecution (NIP). It is their responsibility to provide details of who SPEEDING

SOMARAKIS.

was driving at the time of the alleged offence. Failure to provide the information means a separate offence will have been committed, for which the maximum penalty is six penalty points and a fine up of £1,000 with the company secretary/director likely to be prosecuted.

Philip Somarakis, partner and specialist road traffic and regulatory lawyer at law and professional services firm Gordon Dadds and company secretary of ACFO, says: "Fleet managers must exercise reasonable diligence in identifying drivers through checking records: phone calls, emails and receipts, for example.

"If fleet managers are unable to instantly identify a driver, perhaps if they were at the wheel of a pool vehicle, then they must turn detective. Ultimately, if a fleet manager cannot identify a driver they must be able to satisfy a court that it was reasonable not to have a record of who was driving that vehicle at that specific time."

The NIP must be served on the driver or registered keeper within 14 days of the offence, otherwise the offence cannot proceed at court.

Having received the NIP, the Section 172 notice must be returned providing driver details at the time of the alleged offence within 28 days (21 days in Northern Ireland). If the police are going to send a conditional offer of a fixed penalty notice, they will normally do so shortly after the section 172 notice is returned.

The offending driver must either pay the fine or formally contest the speeding offence in court. Conditional offers have no official system for appeals, though some police forces do accept informal letters of appeal, especially if the speeding ticket has been issued in error.

If an employee is caught speeding, action taken will depend on the circumstances, but mostly on how far the speed limit was exceeded. In most cases, a fixed penalty notice with a fine of £100 and three penalty points will be the result, but in the most severe cases a driver will be prosecuted in court and face a fine of £1,000 (£2,500 for motorway), between three and six penalty points, and possible disqualification.

Source: ACFO in conjunction with fine management company SAFO Europe

TOP TIPS FOR HANDLING PARKING FINES

KEEP TRACK

Retain a record of all correspondence in case the authority or private operator claims they have not received a response.

ACT QUICKLY

Always act immediately, especially within 14 days

in order to reduce the parking penalty, if the fine is accepted.

RECORDED DELIVERY

Send all correspondence via recorded delivery to cover the company. If that is not possible, send all private operator mail via recorded delivery as, unlike councils, they do not allow a statutory declaration to be made. This enables the registered keeper to declare that the mail was sent.

Everything you need to

know about parking fines

at: fleetnews.co.uk/

parkingfines

PRIORITISE

Treat fines requiring a response within seven

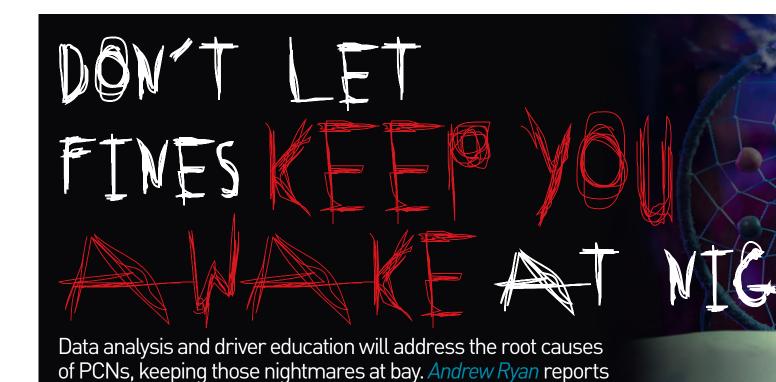
days from posting with absolute urgency.

BE WISE

Remember closed circuit television cameras are increasingly used in the industry for both moving traffic and car parks. Do not assume that drivers will get away with a contravention just because the warden/ police are not around.

PAY OR APPEAL

Do not assume that the driver is at fault. Immediately speak to the driver and find out the circumstances, then make a decision.



NEED TO KNOW

- Many fleets not analysing PCN information
- Telematics driver behaviour data can help
- Education for drivers best way to reduce fines

ncurring penalty charge notices (PCNs) can be expensive and time consuming, but the information they produce is a vital weapon in tackling the problem.

Analysis of penalty charge data allowed food service delivery company 3663 First for Foodservice to reduce its annual PCN costs by between £150,000 and £200,000 a year (see case study, opposite).

"It's all about the data," says Natalie Chapman, head of policy at the Freight Transport Association (FTA). "You can get a lot of information from a parking ticket: you get the reason it was issued, the vehicle registration, the time and the location, and you can put all of that information into a spreadsheet.

"If you analyse this you can find out whether it's a driver issue, whether it's a scheduling issue – for example, if a van

driver is making a delivery in a prohibited time – or something else."

However, making use of information from parking fines is often overlooked by fleets.

"We've found that when we've worked with companies in the past, more often than not their data is a bit of a mess," says Chapman. "The company may be using spreadsheets to help process parking fines to find out which ones they've paid and appealed, but it is not actually pulling off any kind of management information from it.

"This means they are fighting the fire but are not actually addressing the root cause, because they don't understand why they got the PCNs in the first place."

Using this management information is also key to how Hitachi Capital Vehicle Solutions aims to reduce the number of PCNs incurred by its customers. Data is reported in monthly management packs and is used to identify trends which can help prevent PCNs in the future.

"In some cases, PCNs can be the result of a simple misunderstanding. But, if you are going to avoid them, they must be addressed and not ignored," says Ann Morrison, fleet compliance manager at Hitachi Capital Vehicle Solutions.



PASSING PARKING FINES TO DRIVERS CAN BE 'SOBERING' EXPERIENCE

Many fleets find an effective way to reduce costs of penalty charge notices is to pass fines directly to the drivers responsible.

However, fleets are urged to show discretion if adopting this policy.

"Our members tend to charge the drivers the cost of fines, which can be sobering to the employee," says Paul Hollick, of the Institute of Car Fleet Management (ICFM).

"They also rank the employees as, if an employee has lots of parking fines, there are usually accompanying poor driving behaviours across the board – so these are the drivers to watch."

"Our members charge drivers the cost of fines, which can be sobering"

Paul Hollick, ICFM

Natalie Chapman, of the FTA, says making drivers pay the fines can act as a deterrent, but care should be taken when considering making this a blanket policy. "Quite clearly, some PCNs are just unfortunate or the driver is just trying to do their job," she says.

"There should be room for discretion as there may be a very good reason for why a driver has stopped where he has; for example, the vehicle might have broken down.

"Companies need to treat drivers fairly and equally, but also show discretion where that discretion is warranted as well."

She adds: "If companies pay all their PCNs and drivers know that, some drivers might not have same incentive to not pick up the PCN in the first place."



CASE STUDY: 3663 FIRST FOR FOODSERVICE

Analysis of penalty charge notice (PCN) information has helped food service company 3663 First for Foodservice save between £150,000 and £200,000 a year.

The business, which has a fleet of more than 1,000 trucks and 750 cars, delivers ingredients, finished products and equipment to the catering industry, and deals with around 1,000 PCNs a month. It uses Chevin's Fleetwave fleet management software with a specific module to manage PCNs.

"By using the Fleetwave software package, we have reduced our parking fines by 15-20%," says Susan Morrison, fleet support manager for 3663.

'This has been achieved by collating all the data, identifying hotspots and then dealing with the issues, for example finding parking alternatives at delivery points.

Lynsey Roberts, fleet support at 3663, adds: "Previously the PCNs were managed locally at depot level, but there is now a central structure in place for all depots to follow.

'The process is more manageable, information is easily obtained and it is all stored on one centralised database."

"This reduction has been achieved by collating data, identifying hotspots and dealing with the issues"

Susan Morrison, 3663 First for Foodservice

The FTA also advises that education and training for drivers is the best way to avoid parking fines. "For example, the rules for loading and unloading are not the same as parking: you can stop and make deliveries in places that you can't park, but equally there are places where you can't," says Chapman. It's in the Highway Code but a lot of drivers don't understand where you can and can't stop."

Some fleets, such as Gamestec, plan deliveries to ensure they fall within the hours when loading and unloading is permitted. Fleet manager Peter Kowalczyk has updated the company's driver handbook on what not to do, the issues drivers need to be aware of and what the parking fine process is.

Technology such as telematics can help fleets understand why they are receiving PCNs for speeding, and identify any training needs.

Telematics systems are now advanced enough to provide detailed, personalised data that allows managers to identify persistent offenders so that effective intervention can take place," says Nick Walker, managing director of RAC Telematics.

"In my experience it is much more effective to have a conversation before the fine notices begin arriving."

Paul Hollick, chairman of the Institute of Car Fleet Management, adds: "Telematics devices are very popular with commercial fleets and increasingly in company car fleets. They don't stop speeding themselves, but the behavioural data obtained really helps with compliance."

"It's key to understanding why this is happening: is it because of a lack of driver understanding and regard (which can be addressed with training), or is it due to business pressure? Continuing blindly isn't the answer to avoiding fines, nor will it result in a safer fleet."

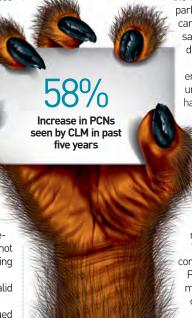
Fleet management company CLM, which has seen a 58% increase in the number of PCNs processed over the past five years, including penalties for parking, speeding and tolls, such as the Dartford Crossing, says the best way to reduce PCNs is through improved driver communication and regular client review meetings.

During these meetings, fleet managers are made aware of the level of PCNs that their drivers are incurring, as well as identifying those drivers most at risk. CLM also sends out regular client and driver newsletters on a regular basis to keep its customers abreast of any changes in driving legislation or regulations.

Morrison emphasises that driver education and awareness are key to avoiding PCNs, as many fines are not incurred deliberately, but either through a misunderstanding or lack of knowledge.

"However, in the eyes of the law, ignorance is not a valid excuse," she adds.

"Any fines issued due to this are as valid as those issued to drivers who knowingly flout the law."





NEED TO KNOW

- Dart Charge website account management criticised
- Fleets report problems with warning signs at crossing
- Highways England promises improvements

ork to improve the road layout around the
Dartford Crossing has almost been
completed, but a new payment scheme
is leaving fleets frustrated.
Dart Charge was launched last
November to speed up journeys at the Dartford Crossing

November to speed up journeys at the Dartford Crossing, and give drivers more flexibility about how and when they pay the crossing charge. Toll booths were removed and drivers are instead expected to pay online, by phone or at one of the nationwide network of retail outlets.

Early indications show that average travel times have improved, according to Highways England, with journeys more than nine minutes quicker southbound and more than four minutes quicker northbound. It also says that journey times are set to improve further when road works are completed this summer.

However, around 700,000 fines have been issued since the scheme was introduced. Fleets have reported problems with roadside warning signs, the Dart Charge website and an increase in administration dealing with fees and fines.

Sue Mosley, global fleet coordinator at C&J Clark International, says she has been hit with "a flurry of Dart Charge fines", with fine notices often taking more than two months to be received. Operating a leased fleet of 250 company cars, the fines are paid by the employer's vehicle provider. However, the £35 fine, plus the original £2.50 charge and a £30+VAT administration fee are passed on to offending drivers. One driver has so far received four fines.

Mosley explains: "This is of considerable concern to drivers, particularly when some have had more than one fine in a week. It appears that the new payment process has not been made clear to drivers, so they are unaware until the fine comes through. We encourage drivers to self-manage, but we want to support them as much as possible."

A message has been sent to drivers making them aware of the new payment regime.

Andrew Houston, head of information and communication technology and fleet at Letchworth-based The Altro Group, says account details need to be easier to change, particularly when an employee leaves and a vehicle is reallocated.

"If an individual employee takes out an account in their own name – even if the Dart Charge fee is recharged to the employer for a company owned or operated vehicle – and they leave, beware, the registration number is locked to that account," he says.

"Even if you have access to the account, you cannot remove the vehicle as there has to be

one left on the account. This means, if the vehicle is reallocated to another employee, you cannot raise a company account nor top up the original account. Even supplying proof of ownership or operating will not enable access to the account."

Houston eventually resolved the issue, saying it "took several hours of my time and accounts department time".

In the interim, the employee who had been reallocated the company car and was a frequent Dartford Crossing user had to remember to pay the fee by midnight on the day after using the Crossing to avoid incurring a penalty charge.

Serco has almost 300 pool vehicles registered on Dart Charge and the company's account runs to 35 pages.

The company's fleet manager, Sue Blair, says: "The inability to download a report from the website for such things as registered vehicles is frustrating. If you want to check that a vehicle is registered, you have to scroll through pages and pages to manually pick it out. We have to cut and paste into an Excel worksheet, as reports cannot be downloaded to be able to manage payments and recharge them back to cost centres."

With a fleet of more than 4,000 vehicles, she says more may have been registered on Dart Charge if the management reporting process was easier and business and private journeys could be easily identified to meet HMRC benefit-in-kind reporting criteria.

Highways England says it is making improvements, and motorists fined for the first time will have two weeks to pay the road user charge of £2.50 per car, instead of the fine.



"The inability to download a report for such things as registered vehicles is frustrating"

Sue Blair, Serco

