



Annual Report on Parking Enforcement Operations 2010 / 2011



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Introduction

Welcome to Warrington Borough Council's annual parking enforcement report for the year 2010/11.

The provision of parking places, the use of parking restrictions and the enforcement of those restrictions can be contentious issues. Parking can be the subject of intense public interest including attracting both local and national media.

The rationale behind this report is that it includes the council's way of operating its enforcement duties and that it is operating the scheme fairly and satisfactorily. It is intended to be a public document that should enable the public to have a better understanding of civil parking enforcement at a local level and provide an insight into why parking controls are necessary and why and how Warrington Borough Council enforces them.

The Traffic Management Act 2004 states that Enforcement Authorities should produce an annual report about their enforcement activities. This report includes useful information concerning the parking of vehicles, (both on the highway and in car parks). It also details the Council's parking operational processes and procedures and sets out the guidelines which the Council adopts for the issuing of penalty charge notices and appeals against those charges.

The latter part of the report details the Council's performance with regards to its parking enforcement operations over the last twelve months.

1.0 Parking Restrictions

1.1 Parking Enforcement – The Legal Background

- 1.1.2 The Road Traffic Regulation Act (1984) authorised local authorities to make Traffic Regulation Orders to control traffic movements and parking provision within their areas. Under the Act the 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 who could issue fixed penalty notices. The income from Fixed Penalty Notices issued by police forces was not retained locally but was instead paid to the Exchequer.
- 1.1.3 The police service found it was increasingly unable to provide the resources necessary to deal directly with parking offences or to fund and manage the traffic warden service. A number of forces indicated their support for another agency taking on responsibility for parking enforcement. The impact of the lack of enforcement on road safety and congestion was deemed unacceptable and in order to address the problem, the Government introduced the Road Traffic Act 1991 [RTA (1991)].
- 1.1.4 The RTA (1991) 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) would 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 PCNs to help fund the new enforcement operations.
- 1.1.5 The aim was that decriminalised enforcement operations would be self funding with revenue from PCN's covering the cost of the scheme. Whilst raising revenue was not an objective of enforcement should a surplus of funds be produced at the end of the financial year those funds could be spent on either improving off-street parking provision or on specified transport related matters.
- 1.1.6 Adoption of RTA (1991) powers was mandatory for London boroughs but optional for other local authorities. Following consultations with the Cheshire Police Warrington Borough Council took on these powers on 5th February 2007.
- 1.1.7 The introduction of the parking related sections of Part 6 of the Traffic Management Act (2004) [(TMA (2004), effective 31st March 2008] changed the legal framework further. The Act widened the scope of local authority parking enforcement and sought to introduce greater openness and professionalism within parking operations. The Act harmonised regulations applicable to authorities inside London with regulations applying to authorities outside of the Capital. Under the new Act 'Decriminalised Parking

Enforcement' (DPE) became 'Civil Parking Enforcement' (CPE); 'Permitted Parking Areas' (PPA) and 'Special Parking Areas' (SPA) became 'Civil Parking Areas' (CPA) and 'Special Enforcement Areas' (SEA) and 'Parking Attendants' (PA s) were re-named Civil Enforcement Officers (CEOs).

1.1.8 The regulations accompanying TMA (2004) urged local authorities to improve communication of their parking policies, operations, guidelines and performance and recommended that this could partly be achieved through the publication of annual reports.

1.2 Parking Operations

1.2.1 Warrington Borough Council is currently reviewing its parking operations and policies to ensure it fully supports the delivery of the next Local Transport Plan. The council's transport policies are aimed at tackling congestion, changing travel behaviour by encouraging greater use of sustainable modes of travel and area also aimed at ensuring safer roads and improving air quality. Parking restrictions and enforcement play an important role in supporting these key LTP objectives.

1.2.2 In setting parking restrictions the Council has taken account of;

- Existing and projected levels 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.

1.2.3 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 need to effectively resource the operation and to ensure that all parking staff are appropriately trained.

1.2.4 When formulating and appraising parking operations 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 seeks to work with neighbouring authorities to achieve a consistent approach.

1.2.5 The Council's parking control aims and objectives are to;

- Regulate and control parking, both on-street and off-street.
- Regulate the use of vehicles in the busiest and most congested areas.
- Encourage the use of car parks (particularly for longer visits).

- Provide sufficient short-stay parking facilities to support shops/ commercial organisations and leisure activities
- Improve traffic flows through implementation and the enforcement of parking restrictions on main routes.
- Improve road safety (for all road users)
- Encourage public transport usage
- Increase and improve pedestrian and cyclist mobility
- Safeguard the needs and requirements of residents, businesses/ organisations and visitors
- Preserve and improve the current infrastructure and general environment.

1.3 Parking Restrictions

1.3.1 Parking restrictions play an important part in helping to achieve the above aims and objectives but will only be sought when there are sound reasons for their introduction. These reasons include the need to;

- Prevent congestion and thereby improve traffic flows
- Improve road safety (for all road users)
- Improve the quality and accessibility of public transport
- Improve the local environment, or
- 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

1.3.2 There are different types of measures which may be used to meet these needs;

- Stopping or Waiting restrictions such as clearways, yellow lines, 'School' restrictions etc,
- Pedestrian Zones
- Bus Lanes
- Residents' 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, bus stops, taxi ranks, motorcycles, loading/ unloading etc)

1.3.3 Many of these measures require Traffic Regulation Orders and are indicated to motorists by way of road markings and/ or signage that have been specifically approved for this purpose by the Department for Transport (DfT). Whilst there are many different types of parking restriction which may be introduced they can be split into two distinct categories. The first category prohibits all vehicles or all but certain classes of vehicle from stopping. These include clearways, taxi ranks, bus stops, school restrictions etc. The second category place restrictions on waiting or 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).

1.3.4 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 either local residents, the 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.

1.3.5 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 the end. 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.

1.4 Waiting Restrictions

1.4.1 Where 'waiting' restrictions apply (as opposed to 'stopping' restrictions) vehicles are usually permitted to wait for the purpose of actively picking up or setting down passengers (but not to park to await the arrival of those passengers) or 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 being loaded or unloaded are of such a nature that the driver could carry them to or from the premises without difficulty, then it would not be considered "necessary for the vehicle to be parked". The driver

would therefore be 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 onto 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 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 dispensations enabling their vehicles to be temporarily parked in breach of parking restrictions (provided that those vehicles would not obstruct traffic flow), or by seeking to identify nearby sites where those vehicles could be parked without breaching parking regulations.

1.4.2 Whilst the activity of loading is usually permitted on yellow lines, it is not permitted 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 signs.

1.5 On-Street Parking Restrictions

1.5.1 Where parking restrictions are in force, they will be indicated to motorists by the use of road markings and/or signs.

1.5.2 Double yellow lines mean 'no waiting at any time' and they therefore do not require any accompanying signage.]

1.5.3 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 and Bank Holidays. If no times are shown then the restriction applies 24 hours a day.

1.5.4 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. The detail of the restrictions will be specified on the nearby plates.

- 1.5.4 When parking a vehicle 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.
- 1.5.5 Whether or not there are parking restrictions in force vehicles must not be parked 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.
- 1.5.6 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

1.6 Off Street Parking in Car Parks

- 1.6.1 The Council also provides many off-street car parks for use by motorists. Each car park will have at least one information board explaining any parking charges and the days / times on which they apply. It is necessary for motorists to take the time to read the boards as failure to park in accordance with the car park rules can result in penalty charges being incurred.
- 1.6.2 When using pay and display parking motorists should display the purchased ticket prominently displayed in their vehicle and ensure that the side which shows the ticket details (time, date, amount paid etc) can be easily read from outside. As tickets can be dislodged by gusts of wind when doors are opened or closed it is always advisable to check that the ticket is correctly displayed before leaving the car park.
- 1.6.3 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.warrington.gov.uk

1.7 Parking by Blue Badge Holders

- 1.7.1 The national Blue Badge scheme provides a range of parking concessions for disabled people with severe mobility problems. The scheme is designed to help severely disabled people to travel independently, either as a driver or passenger, by allowing them to park close to their destination.
- 1.7.2 Details of the scheme 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” and
- “The Blue badge Scheme: guidance for blue badge holders and their drivers on the power to inspect blue badges being displayed on motor vehicles”

1.7.3 The first booklet is aimed at potential applicants for a blue badge whilst the other two booklets are issued to badge holders with their new or renewed Badges. Copies of the booklets can be found in the “Blue Badge scheme” section of the Department’s website www.dft.gov.uk or alternatively they can be obtained from the local badge issuing authority.

1.7.4 In Warrington the Borough Council is the issuing Authority and details of the scheme can be obtained from the Blue Badge Administration Team, Contact Warrington, 25-30 Horsemarket Street, Warrington, WA1 1XL (Tel: 01925 443322). Further details can be found in the “Disabled parking badges (Blue badge scheme)” section of the Council’s website www.warrington.gov.uk

1.7.5 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 waiting restrictions (yellow lines), the scheme does not provide a blanket exemption from all on-street parking restrictions.

1.7.6 It should also be noted that the 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.

1.7.7 When using a car park (whether council operated, or privately owned) Blue Badge holders should therefore always check the car park information boards to see whether there are any concessions available to them. Blue Badge holders should not assume that their badge entitles them to park free of charge in car parks without first checking the information boards for confirmation.

1.7.8 Further information regarding parking by Badge holders within Warrington can be found in the “Disabled parking” section of the Council’s website www.warrington.gov.uk

2.0 The Enforcement of Parking Restrictions

2.1 Enforcement of Penalty Charge Notices (PCN's)

- 2.1.2 Where 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 a Penalty Charge Notice (PCN).
- 2.1.3 With effect from 31st March 2008 local authorities are required to issue two different levels of penalty charge notices in their enforcement areas. The higher level charge applies for parking in places where parking is prohibited such as on yellow lines, or in a disabled bay without displaying a valid badge. The lower level charge applies in relation to places where parking is permitted but where the driver has failed to conform to regulations such as failing to display a pay and display ticket, overstaying the permitted time etc. Previously all contraventions received the same penalty regardless of the seriousness of the offence and this was perceived by many as being unfair. The Secretary of State determines which parking contraventions are subject to the higher and lower charges.
- 2.1.4 There is a single nationwide standard list of the parking contraventions for which Civil Enforcement Officers (CEO's) may issue Penalty Charge Notices but not all of the contraventions will be relevant in every area. For example some areas will have parking meters whilst others will 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
- 2.1.5 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. There are certain circumstances under which, if the CEO has been unable to attach the PCN to a vehicle or hand it to a driver then the PCN may be served by post.
- 2.1.6 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 either 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 a statutory amount, currently a reduction of 50%. If the PCN is not paid within 28 days, the Council may then serve a Notice to Owner on the owner of the vehicle.

2.2 Civil Enforcement Officers – Operational Procedures

- 2.2.1 Experience has shown that active enforcement of parking restrictions is required in order to encourage compliance. If active enforcement is not carried out motorists are likely to 'take a chance' and ignore the restriction.

2.2.2 The Council has determined that parking enforcement will be undertaken by Civil Enforcement Officers (CEO's) who are employed by a contractor. 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.

2.2.3 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. CEOs are salaried employees and 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 Borough although it may be necessary to prioritise those areas where the most parking problems are experienced.

2.2.4 The Council has set the following Code of Practice for the standards and guidelines which its Civil Enforcement Officers (CEO's) must follow;

- As required by law, whenever conducting their enforcement duties they must wear the uniform which is issued to CEOs. 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. There is no requirement for CEOs to be wearing headgear such as a hat or cap when they are issuing PCNs.
- CEOs are to check that vehicles within their patrol area are parked in accordance with the parking regulations and, where they are not, 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. If a motorist wishes to dispute a PCN which has been issued, they must follow the appeals procedure which is detailed on 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 20") 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 CEO's are expected to record the presence of such notes, they have an obligation to issue PCNs 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 be taken into account in deciding whether or not payment of the PCN is 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 CEOs' duties to assist the public by providing them with advice and guidance on parking related matters.
- CEOs will inform the police of suspected criminal activity. The high profile of uniformed CEO patrols will hopefully help to dissuade such activity. In cases of accident or emergency, CEOs are to assist the police when required, but must not put their own safety at risk to do so.
- Whilst on patrol, CEOs will look out for and report;
 - Potential dangers to the public which should be reported to the Council or to the emergency services as appropriate
 - Suspected abandoned vehicles
 - Un-taxed vehicles should be reported to the DVLA
 - Faults with parking equipment including 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 of a CEO
 - Changes in parking patterns and/ or possible changes to parking restrictions which may be appropriate.

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

2.2.6 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 of a Civil Enforcement Officer employed by the Council and on duty
- 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 when requested by the CEO they immediately either remove the vehicle or take steps to ensure that the parking regulations are complied with.
- When the driver returns to their vehicle either during the CEO's observation period, or whilst the PCN is being prepared, but before it can be issued. The CEO may instead issue a verbal warning 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) 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. The Council does not tolerate threats, intimidation or assaults on its staff and will not hesitate to initiate criminal prosecutions in respect of such behaviour.

2.2.7 Parking restrictions are applied 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 work of the Council's CEO's is 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 motorist. The purpose of issuing PCNs 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 the objectives specified earlier in this report.

2.2.8 CEOs work throughout the year in all weathers and often in difficult circumstances. As most of the Borough's parking restrictions apply 24 hours a day, 7 days a week CEOs are required to work on a shift basis to give the widest possible enforcement coverage.

2.3 The Appeals Process

2.3.1 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 if any changes of vehicle ownership occur they are immediately notified to the DVLA.

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

2.3.3 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 PCN served in respect of the vehicle during the currency of the agreement.

2.3.4 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. A challenge at this stage will be made by the person who has received the PCN or the driver of the vehicle.

2. Once an NtO has been served vehicle owners 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 and these will be specified upon the Notice. However 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 adjudicator of the Traffic Penalty Tribunal (TPT) formally the National Parking Adjudication Service (NPAS). The adjudicators have a judicial position. They are appointed with the agreement of the Lord Chancellor and they are wholly independent of the council. Adjudicators arrive at decisions based on the evidence placed before them and their decisions are final (subject to their own power to review a decision). Adjudicators have the power to award costs against either party. After Adjudicators have made their decisions no further challenges can be made other than on a point of law through application to the High Court for Judicial Review. Appellants may choose to appear before the adjudicator at a personal hearing postal or telephone. Full details of the adjudication service and of the appeals process can be found on their website www.trafficpenaltytribunal.gov.uk

2.3.5 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 The Handling of Appeals

- 2.4.1 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 asks that all representations are made in writing either by letter or e-mail.

The Council has the discretion to cancel a PCN at any point in the appeals process and has set out the following procedure 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 that have been trained in the handling of such representations. Those staff shall be authorised to exercise the Council's discretion to cancel PCNs.
- Elected members and unauthorised staff will play no part in deciding the outcome of challenges or representations.
- 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. See Council's Cancellation Procedure. (Section 3.4)

2.4.2 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 decision notices should be served within 21 days, but the Council will normally aim to reach a decision and to issue a decision notice in respect of all representations within 14 days of their 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 and 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 and 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 relevant legislation.

2.4.3 If a duly authorised officer considers that the evidence or circumstances in relation to either an informal appeal or to a formal representation provide 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.

2.5 The Recovery of Unpaid Penalty Charges

2.5.1 Where a Notice to Owner (NtO) has been served on a vehicle owner and either;

- 28 days have passed since the NtO was served and no representation or appeal is under consideration, or
- 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
- 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
- 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.

2.5.2 The certificate tells the vehicle owner that the penalty charge has been increased by the statutory amount (currently 50%) and 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.

2.5.3 Once the certificate is registered, 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 and the registration fee. 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 states the grounds on which a Witness Statement can be made.

2.5.4 If the motorist fails to either pay the outstanding amount or to submit a Witness Statement the Council can ask the TEC for 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.

2.5.5 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 the penalty charge.

3.0 Performance of Parking Operations and Duties

3.1 Financial performance

- 3.1.1 As a local authority which operates Civil Parking Enforcement and the Council is required to keep an account of all of 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).
- 3.1.2 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 following financial year.
- 3.1.3 The performance of the Council's parking account over the last twelve months is as follows;

For the financial year ended 31st March 2010/11

Income	
Off-street parking charges (pay & display)	£367,796
Penalty Charges	
Off-street	£119,415
On-street	£283,116
Parking contracts	£43,626
Parking Dispensations issued	£960
Total Income	£814,913
Expenditure	
Premises	£177,248
Supplies & Services	£158,874
Third Party Payments	£483,814
Support Services	£198,161
Capital Charges	£29,516
Total Expenditure	£1,047,613
Surplus/Deficit	£-232,700

3.2 Penalty Charge Notices – Summary of Numbers Issued

- 3.2.1 As reported earlier there is a national list of the parking contraventions for which CEOs are empowered to issue PCNs. Detailed in the following table is the numbers of PCNs which the CEOs issued during 2010/11 in respect of each type of contravention.

On-street parking contraventions		
Code	Contravention Description	PCNs
01	Parked on a restricted street during prescribed hours	2051
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	794
12	Parked in a residents or shared use parking place without clearly displaying either a permit or voucher or pay & display ticket issued for that place	1985
18	Using a vehicle in a parking place in connection with sale or offering or exposing for sale goods when prohibited	1
19	Parked in a residents or shared use parking place or zone displaying an invalid permit, an invalid voucher or an invalid pay & display ticket	55
21	Parked in a suspended bay/space or part of bay/space	0
22	Re-parked in the same parking place or zone within specified prohibited time	34
23	Parked in a parking place or area not designated for that class of vehicle	2
24	Not parked correctly within the markings of the bay or space	128
25	Parked in a loading place during restricted hours without loading	626
26	Parked more than 50cm from the edge of the carriageway and not within a designated parking place	73
27	Parked adjacent to a dropped footway	1
30	Parked for longer than permitted	1766
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge	636
45	Parked in a taxi rank	69
46	Stopped where prohibited on a clearway	2
47	Stopped on a restricted bus stop or stand	52
48	Stopped in a restricted area outside a school when prohibited	5
99	Stopped on a pedestrian crossing and/or crossing area marked by zig zags	41
W01	As above	1
W12	As above	1
W22	As above	37
W30	As above	5
Total number of on-street PCNs issued		8365

Off-street parking contraventions		
Code	Contravention Description	PCN's
73	Parked without payment of the parking charge	0
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	0
80	Parked for longer than the maximum period permitted	184
81	Parked in a restricted area in a car park	192
82	Parked after the expiry of paid for time	782

83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	1921
84	Parker with additional payment made to extend the stay beyond time first purchased	53
85	Parked in a permit bay without clearly displaying a valid permit	254
86	Parked beyond the bay markings	476
87	Parked in a disabled person's parking space without clearly displaying a valid disable person's badge	327
89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area	0
90	Re-parked within 1 hour (or other specified time) of leaving a bay or space in a car park	6
91	Parked in a car park or area not designated for that class of vehicle	1
92	Parked causing an obstruction	52
93	Parked in a car park when closed	0
95	Parked in a parking place for a purpose other than the designated purpose for the parking place	0
	Total number of off-street PCN's issued	4248

3.2.2 The following table provides a breakdown of PCNs issued in 2010/11 and how they have progressed.

On-Street	Total PCNs	%
Number of High level PCNs issued	6364	76.08%
Number of low level PCNs issued	2011	23.92%
Number of PCNs paid	6739	80.56%
Number of PCNs paid at discounted rate	5709	68.25%
Number of PCNs against which an informal or formal representation was made	1739	20.79%
Number of PCNs cancelled as a result of an informal or formal representation	341	4.08%
Number of PCNs cancelled for other reasons	258	3.08%

Off-Street	Total PCNs	%
Number of High level PCNs issued	830	19.54%
Number of low level PCNs issued	3418	80.46%
Number of PCNs paid	3337	78.55%
Number of PCNs paid at discounted rate	3022	72.16%
Number of PCNs against which an informal or formal representation was made	1384	32.58%
Number of PCNs cancelled as a result of an informal or formal representation	678	15.96%
Number of PCNs cancelled for other reasons	133	3.13%

3.3 Adjudication cases

The following table gives a summary of the outcome of appeals made during 2010/11

Number of appeals to adjudicators	38
Number of appeals lost	7
Number of appeals won	9
Number of appeals non-contested	22

3.4 Cancellation Procedures

3.4.1 The tables contained in contained in the appendices to the report summarise what factors are taken into account when considering when to issue a Penalty Charge Notice (PCN) and also when considering representations and appeals following the issue of PCNs. The tables are intended to provide guidance to the public and all staff working in the enforcement of parking regulations. The procedures and detail in the tables are also intended to ensure clarity, consistency and transparency within the enforcement process and to ensure that all processes are administered using quality-based standards that the public understand and that the procedures are applied and enforced fairly, accurately and expeditiously.

3.4.2 The procedures and detail contained in the Appendices address the following:

- The statutory grounds upon which representations may be made against the issue of a PCN
- Mitigating circumstances that can be taken into account when assessing an appeal to a PCN
- The acceptance or rejection of representations

3.4.3 It is important to recognise that each case will be considered on its own merits, matters of proportionality, objectivity, fairness and reasonableness should be paramount.

3.4.4 These procedures and processes will be subject to ongoing review.

APPENDIX A

SUMMARY OF PCN CODES USED IN THE ISSUE OF ON AND OFF STREET PENALTY CHARGE NOTICES

S1 THE CONTRAVENTION DID NOT OCCUR:.....

- S1.1 where the motorist claims he/she was loading/unloading.....
- S1.2 where the motorist claims that a parking pay & display machine was faulty.....
- S1.3 where motorist claims that the restriction is not clearly signed or marked.....
- S1.4 where motorist was carrying out building works.....
- S1.5 where motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver).....
- S1.6 where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on the PCN which was issued.....
- S1.7 where motorist claims that a valid authorisation to park, had been issued.....
- S1.8 where the motorist claims that a pay & display ticket was purchased and displayed.....

S2 THE PENALTY EXCEEDED THE RELEVANT AMOUNT

S3 THE TRAFFIC ORDER WAS INVALID

S4 THE MOTORIST WAS NOT THE OWNER/KEEPER OF THE VEHICLE AT THE TIME OF THE CONTRAVENTION:

- S4.1 where the current registered keeper claims that the vehicle was disposed of before the contravention occurred.....
- S4.2 where the current registered keeper claims that the vehicle was purchased after the contravention occurred.....
- S4.3 where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention.....
- S4.4 where the motorist claims that they never owned the vehicle.....

S5 THE VEHICLE HAD BEEN TAKEN WITHOUT OWNER'S CONSENT

- S5.1 where the current registered keeper claims that the vehicle had been stolen.....
- S5.2 where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner).....

S6 THE OWNER IS A HIRE COMPANY AND HAVE SUPPLIED THE NAME OF THE HIRER

S7 ANY OTHER INFORMATION THAT THE MOTORIST / VEHICLE OWNER WANT THE COUNCIL TO TAKE INTO CONSIDERATION

MITIGATING CIRCUMSTANCES

- MC1 where the motorist claims to have become unwell while driving or whilst parked.....
- MC2 where the motorist claims to be a doctor, nurse, health visitor attending a patient.....
- MC3 where the motorist stopped to use the toilet.....
- MC4 where the motorist stopped to collect (prescribed) medication from a chemist.....

MC5 where the motorist was a patient visiting a doctor's surgery

MC6 where the motorist claims to have been recently bereaved

MC7 where the motorist was delayed in returning to their vehicle and parking time purchased had expired

MC8 where the motorist "fed" a meter or pay & display machine by buying subsequent time to park in the same place or returned to the same place within a specified and prohibited time period

MC9 where the motorist left the vehicle parked without a valid ticket on display to obtain change.

MC10 where the motorist claims to have been unaware of charges or restriction in the car park relating to vehicle's class or weight.

MC11 where the motorist claims to have been unaware of recent rise in tariff

MC12 where the motorist had parked with one or more wheels outside of a marked bay in a car park.....

MC14 where the motorist claims to have been unaware of the existence of a controlled parking zone

MC15 where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents permit, business permit or visitors permit.....

MC16 where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident's visitor permit.....

MC17 where the motorist is a new resident within a controlled parking zone and had parked in a residents bay without displaying a valid residents permit.....

MC18 where the motorist had parked incorrectly in a controlled bay on-street

MC19 where the motorist assumed that they were entitled to "a period of grace" before the PCN was issued.....

MC20 where the motorist claims they were attending a funeral

MC21 where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings

MC22 where the motorist claims that their vehicle had broken down

MC23 where the motorist claims that they were attending an emergency or another vehicle that had broken down

MC24 where the motorist claims to have put money into the wrong ticket machine

MC25 where the vehicle in question was on police, fire brigade or ambulance duties.....

MC26 where the motorist claims to have been collecting or depositing monies at a bank.....

MC27 where the motorist claims to have been unaware of a temporary parking restriction or special event restriction

MC28 where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time, e.g. is living abroad or is in prison

MC29 where the registered keeper liable for payment of the PCN is said to have died.....

MC30 where the vehicle driven by the motorist is diplomatically registered.....

MC31 where the motorist received a Fixed Penalty Notice (FPN) from a police officer or traffic warden when parked in the same location

MC32 where a Council officer or Member parked in contravention and claims to have been on Council business.....

MC33 where the motorist stopped to drop off someone

MC34 where motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction

MC35 where motorist states they were in police custody when PCN issued

MC36 where motorist states they were visiting a friend or relative in urgent circumstances..

MC37 where motorist claims there was no legal place to park

MC38 where motorist claims they were parked on private property

MC39 where motorist was delayed in returning to their vehicle parked in a limited waiting parking place

MC40 where motorist had parked while asking directions / opening gates to private property

MC41 where motorist stopped to answer mobile phone

MC42 where motorist states that the details on the PCN are incorrect, e.g. location.....

MC43 where motorist states they were unaware of enforcement on Bank/Public holidays....

MC44 where motorist states that restriction was marked after the vehicle had been parked.

APPENDIX B

DETAIL OF STATUTORY GROUNDS TO MAKE REPRESENTATIONS AGAINST THE ISSUE OF A PENALTY CHARGE NOTICE THAT MAY / MAY NOT BE CONSIDERED

(Part 6 of Traffic Management Act 2004)

Important note:

Although the following are the 6 Statutory Grounds to make representation, in accordance with a directive issued by the Local Government Ombudsman, full consideration will be given and account taken of all representations received, whether or not they fall within the description of “**Statutory Grounds**”. It is for this reason that a 7th Ground, encompassing any other information the motorist or owner/keeper would like the Council to consider, has been included.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S1 The contravention did not occur:</u>	
<u>S1.1 where the motorist claims he/she was loading/unloading</u>	
<p>On a waiting prohibition or in a controlled bay: If evidence is available or provided to show:</p> <ol style="list-style-type: none">1. Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from 'legal' parking place.2. Loading/unloading activity was adjacent to the premises concerned.3. Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity [Source – Traffic Orders, decided cases e.g. Jane Packer Flowers] If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc.	<p>On restrictions banning loading and unloading. On school zig-zag markings; on bus stop clearways: On Taxi ranks: On Police bays where loading is prohibited: In car parks: (except when depositing materials in recycling bins) if a valid pay & display ticket was not purchased first.</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.2 where the motorist claims that a parking pay & display machine was faulty	
If service records confirm a fault or that the machine had been taken out of service at the time of the contravention. If there is reasonable doubt because evidence not available to confirm that a machine was working at the time (test ticket) and there was not another ticket machine nearby which was operating correctly	If there was another ticket machine nearby that was working correctly at the time. If there is no record of the machine being faulty or taken out of service. If there is reasonable doubt because evidence confirms that other visitors had been able to purchase tickets during the relevant period

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.3 where motorist claims that the restriction is not clearly signed or marked	
If signs and/or markings are missing or unclear If signs and markings are inconsistent with each other and/or Traffic Order or legislation	If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.4 where motorist was carrying out building works	
If evidence confirms that the motorist was simply loading/unloading (see S1.1, above) If valid waiver to park at the location in question had been issued and was on display in the vehicle. If works are of a statutory nature or are exempted from restrictions by a Traffic Order or legislation If it can be proven that works were an emergency,	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.5 where motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver)	
If the CEO's pocket book and/or computer notes confirm that the vehicle drove away before a PCN could be served, i.e. PCN not handed to the driver or fixed to the vehicle.	If the CEO's notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.6 where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on the PCN which was issued	
Following consideration of all available evidence: If the motorist provides a copy of their vehicle excise license (tax disc), which was valid at the time of the contravention, and the serial number of which differs from the number noted by the CEO.	If the motorist does not provide a copy of their tax disc, after being given a further opportunity to submit such a copy Or If the serial number on the copy tax disc provided by a motorist is identical to the serial number noted by the CEO. Or If there is no evidence or if the evidence presented does not support the claim or is inconclusive

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.7 where motorist claims that a valid authorisation to park, had been issued	
If records show that the motorist holds a valid authorisation to park.	If the motorist cannot provide a copy of the valid authorisation to park or if there is no record of any issue of the authorisation If the motorist did not park in accordance with the authorisation

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.8 where the motorist claims that a pay & display ticket was purchased and displayed	
If the motorist produces a Pay & Display parking ticket that was valid at the time the Penalty Charge Notice was issued and the CEO confirms that a face down ticket and an attempt to use the sticky back was used.	<ul style="list-style-type: none"> • If the motorist is unable to produce a valid pay & display ticket • The CEO was unable to confirm that a face down ticket or a ticket that was displayed but concealed in some other way was seen • the motorist has made a similar representation before and had a previous PCN cancelled, after giving them the benefit of the doubt; or • the CEO noted that the motorist obtained their ticket from another motorist in the car park.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S2 The penalty exceeded the relevant amount</u>	
If the PCN and/or Notice to Owner showed the incorrect amount of penalty charge, i.e. the wrong penalty charge band	If the PCN or Notice to Owner showed the correct amount of penalty charge

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S3 The Traffic Order was invalid</u>	
If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was either not constructed correctly, i.e. is ultra vires, or was not made correctly, i.e. not consulted on properly	If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was constructed and made correctly If the motorist merely considers the restrictions to be unfair

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S4 The motorist was not the owner/keeper of the vehicle at the time of the contravention:</u>	
<u>S4.1 where the current registered keeper claims that the vehicle was disposed of before the contravention occurred</u>	
If the current registered keeper is able to provide proof that the vehicle was disposed of before the contravention, i.e. a bill of sale, registration documents, insurance documents or a letter from the DVLA; and/or If the current registered keeper is able to provide the full name and address of the person to whom they disposed of the vehicle ACTION - send a new Notice to Owner to the person named by the current registered keeper	If the current registered keeper is unable to prove that they disposed of the vehicle before the contravention nor provide the name and address of the person to whom they disposed of the vehicle If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S4.2 where the current registered keeper claims that the vehicle was purchased after the contravention occurred	
<p>If the current registered keeper is able to provide proof that the vehicle was purchased after the contravention, i.e. an invoice, registration documents, insurance documents or a letter from the DVLA; and/or If the current registered keeper is able to provide the full name and address of the person from whom they purchased the vehicle</p>	<p>If the current registered keeper is unable to prove that they purchased the vehicle after the contravention nor provide the name and address of the person from whom they bought the vehicle If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S4.3 where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention	
<p>Only when a hire agreement exists (see S6, below)</p>	<p>In all other circumstances because the registered keeper is always liable, including where the vehicle was left in the care of a garage</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S4.4 where the motorist claims that they never owned the vehicle	
<p>If the DVLA confirm that the motorist was not the registered keeper at the time of the contravention</p>	<p>If the DVLA confirms that the motorist was the registered keeper of the vehicle at the time of the contravention. If the previous registered keeper provides proof that the motorist bought the vehicle before the contravention, or the subsequent registered keeper provides proof that the motorist sold the vehicle after the contravention If the motorist is proven to have hired the vehicle for the day on which the contravention occurred and signed an agreement to take responsibility for PCNs incurred, subject to the time of hire (see S6, below)</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S5 the vehicle had been taken without owner's consent</u>	
S5.1 where the current registered keeper claims that the vehicle had been stolen	
If the registered keeper provides a valid police crime report reference number.	If the current registered keeper is unable to provide any proof of theft If the police crime report reference number provided by the current registered keeper does not exist or it does not match the theft or date of the theft alleged

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S5.2 where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)	
In no circumstance	In all circumstances because the registered keeper is always liable, save for when a hire agreement exists (see S6, below)

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S6 the owner is a hire company and have supplied the name of the hirer</u>	
If the hire company are able to provide proof that the vehicle was hired at the time of the contravention, i.e. a signed agreement If the hire company are able to provide the full name and address of the person to whom they hired the vehicle ACTION - send a new Notice to Owner to the person named by the hire company	If the hire company are unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom they hired the vehicle If the person named by the hire company as the person to whom they hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention If the vehicle was being as a courtesy car without an agreement signed to accept responsibility for Penalty Charge Notices issued.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<u>S7 Any other information that the motorist / vehicle owner want the Council to take into consideration</u>	
<p>The decision whether or not a Penalty Charge Notice should be cancelled, will only be taken following very careful consideration taking into account all of the evidence available.</p>	

APPENDIX C

DETAIL OF MITIGATING CIRCUMSTANCES THAT MAY / MAY NOT BE CONSIDERED

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC1 where the motorist claims to have become unwell while driving or whilst parked	
If the motorist provides proof of a medical condition, temporary or permanent, that is consistent with the conditions described. When the notes made by the CEO support the motorist's representations.	If the motorist cannot provide some proof of a medical condition, temporary or permanent, consistent with the conditions described. Or where other evidence contradicts the motorists claims

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC2 where the motorist claims to be a doctor, nurse, health visitor attending a patient	
If the motorist concerned possesses a Medical Dispensation badge (BMA, HEBS) that the Council recognises and approves and/or is exempt under the relevant Order. Or If the motorist produces evidence that they were responding to an urgent medical call and there was no nearby legal parking place.	If motorist was not attending a patient in urgent circumstances or if there was a legal parking spaces nearby. If motorist was parked outside their practice or other place of work for any reason other than to collect supplies for an urgent call If motorist was parked in an area which does not correspond with claims made in representations, i.e. far from patients property, say, in a car park

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC3 where the motorist stopped to use the toilet	
On production of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation.	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC4 where the motorist stopped to collect (prescribed) medication from a chemist	
Only in the most grave, urgent and exceptional of circumstances and the use of a 'legal' parking place would have caused an unacceptable delay.	In any lesser circumstances.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC5 where the motorist was a patient visiting a doctor's surgery	
If the motorist can provide a letter from a doctor to confirm that the visit was very urgent and that they were unable to walk from the nearest legal parking space.	If the motorist was not the patient but only driving the vehicle carrying the patient If the motorist was attending a pre-arranged, non-urgent appointment. If the motorist could reasonably have been expected to parked legally elsewhere.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC6 where the motorist claims to have been recently bereaved	
If no evidence exists to the contrary, taking into account the sensitivity of this issue on first occasion.	Only if there is a significant reason to doubt the sincerity of representations, i.e. the CEO's notes indicating that the motorist was going about a normal day, say, shopping or working, or the bereavement considered to be a long time ago

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC7 where the motorist was delayed in returning to their vehicle and parking time purchased had expired	
If supported by appropriate evidence, the motorist's representations claims that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional. If motorist's vehicle had broken down, subject to concurrence with MC25, below) If the motorist was unable to drive, since parking the vehicle. The motorist had been detained and/or charged by the police.	If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop. If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or commuting. If the motorist was unable to drive since parking due to excess alcohol in the body.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC8 where the motorist “fed” a meter or pay & display machine by buying subsequent time to park in the same place or returned to the same place within a specified and prohibited time period	
In no circumstances	If the motorist overstays initial period of time purchased or returns within a period of ‘No return’

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC9 where the motorist left the vehicle parked without a valid ticket on display to obtain change.	
If the motorist had not left the car park, or on-street pay and display area, while obtaining change and a ticket was purchased.	If the CEO’s notes indicate that the motorist returned to their vehicle, having completed their purpose for parking, while the PCN was being issued, i.e. carrying shopping, or had left vehicle in car park, or on-street pay and display area, while obtaining change

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC10 where the motorist claims to have been unaware of charges or restriction in the car park relating to vehicle’s class or weight.	
If reference to restrictions on tariff board(s) are incorrect or missing.	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC11 where the motorist claims to have been unaware of recent rise in tariff	
If statutory notices were not erected in accordance with procedural regulations. If revised tariff is not on tariff board(s)	If statutory notices were erected in accordance with procedural regulations and tariff board(s) were correct

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC12 where the motorist had parked with one or more wheels outside of a marked bay in a car park	
Only in the most exceptional of circumstances that were outside the motorists control and are supported by incontrovertible evidence. Otherwise, in no circumstances	When clear and incontrovertible supporting evidence (photographs/sketch plan) is available

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC14 where the motorist claims to have been unaware of the existence of a controlled parking zone	
If it can be established that the signing and marking of the CPZ/CPA is at fault, see S1.3, above	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC15 where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents permit, business permit or visitors permit	
If the renewal of the authorisation was delayed by the Council's administrative processes If it can be established that other reasonably unforeseen circumstances delayed the renewal of an authorisation to park, e.g. sickness on the part of the applicant or a postal dispute/delays (supported by appropriate evidence) In the case of season tickets and resident's / business parking permits only, if the authorisation had expired by less than 3 days	In all other circumstances In the event of more than one vehicle registration included on season ticket or permit, subsequent production of the season ticket will not necessarily cause automatic cancellation of the PCN as the season ticket may have been used on the other vehicle

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC16 where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident's visitor permit.	
In no circumstances	On all occasions

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC17 where the motorist is a new resident within a controlled parking zone and had parked in a residents bay without displaying a valid residents permit	
In no circumstances	On all occasions

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC18 where the motorist had parked incorrectly in a controlled bay on-street	
If it can be established that the motorist was genuinely loading or unloading, subject to compliance with S1.1, above.	On all occasions

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC19 where the motorist assumed that they were entitled to “a period of grace” before the PCN was issued	
In no circumstances.	In all circumstances.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC20 where the motorist claims they were attending a funeral	
If no evidence exists to the contrary, taking into account the sensitivity of this issue.	Only if there is a significant reason to doubt the sincerity of the representations.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC21 where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings	
If it can be established that such conditions prevailed and it is likely that signs and markings were obscured as claimed and there was no alternative indication of the restriction.	If it can be established that such conditions did not cause lines and signs to be obscured as claimed. If the CEO's notes photographic evidence etc. directly contradict the motorist's version of events. If any reasonable alternative indication of the restriction was available to the motorist. If the location of the contravention was unlikely to be subject to the natural conditions described by the motorist, i.e. it was under cover

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC22 where the motorist claims that their vehicle had broken down	
<p>If the motorist is able to provide evidence of a breakdown, i.e. proof of vehicle recovery or a bill of sale for repair or parts.</p>	<p>If the motorist is unable to provide evidence of any kind that their vehicle had broken down If the cause of the vehicle “breaking down” was due to negligence on the part of the motorist, i.e. the vehicle had not been properly maintained, had run out of petrol or water or a similar reason If the CEO’s notes contradict the motorist’s version of events.</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC23 where the motorist claims that they were attending an emergency or another vehicle that had broken down	
<p>If the motorist is able to provide reasonable proof of the emergency, i.e. a credible report of an accident or incident, or that they were attending to another vehicle that had broken down.</p>	<p>If the motorist is unable to provide evidence of any kind that they were attending an emergency or another vehicle which had broken down If the CEO’s notes contradict the motorist’s version of events, i.e. the motorist was not seen attending an emergency or another vehicle which was broken down</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC24 where the motorist claims to have put money into the wrong ticket machine	
<p>If it is agreed that the position of the ticket machine used by the motorist is likely to cause confusion.</p>	<p>If the ticket machine used by the motorist is positioned in such a place that confusion is not likely. If the motorist has had representations accepted for a similar contravention previously.</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC25 where the vehicle in question was on police, fire brigade or ambulance duties	
<p>If a senior officer of the service concerned supports the representations and there is no reason to doubt that the vehicle was engaged on operational activities.</p>	<p>In all other circumstances</p>

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC26 where the motorist claims to have been collecting or depositing monies at a bank	
If the procedure explained in the motorist's representations is consistent with the allowance for loading and unloading, see S1.1, above or If specific arrangements have been agreed	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC27 where the motorist claims to have been unaware of a temporary parking restriction or special event restriction	
If the motorist claims that there was no indication of the restriction, and the CEO's notes/photographs do not confirm that appropriate signing was in place. If the process followed to make the temporary order was defective in some way.	If the CEO's notes/photographs confirm that the vehicle was parked in an area restricted by the Temporary Order or Notice, and that appropriate signing was in place and clearly visible.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC28 where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time, e.g. is living abroad or is in prison	
In no circumstances	On all occasions

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC29 where the registered keeper liable for payment of the PCN is said to have died	
Where the circumstances can be confirmed (by sensitive enquiry).	Only if there is a significant evidence to doubt the sincerity of the representations.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC30 where the vehicle driven by the motorist is diplomatically registered	
In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle KCC should be informed of all penalty charges unrecovered from keepers of diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and Commonwealth Office [Source – Secretary of State’s Traffic Management and Parking Guidance, Vienna Convention on Diplomatic Relations, Diplomatic Privileges Act 1964 and Government Report on Review of Vienna Convention...]	In no circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC31 where the motorist received a Fixed Penalty Notice (FPN) from a police officer or traffic warden when parked in the same location	
To prevent ‘double jeopardy’, if confirmation provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted.	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC32 where a Council officer or Member parked in contravention and claims to have been on Council business	
If the officer was carrying out emergency or other statutory work.	If it can be established that the officer/Member could have reasonably parked elsewhere.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC33 where the motorist stopped to drop off someone	
If the circumstances are seen by the CEO. If, in exceptional circumstances and subject to observations times, the motorist had to escort a passenger (child, elderly or disabled person) to home, or school.	If motorist was parked/stopped on school keep clear markings, pedestrian crossing, bus stop clearway

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC34 where motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction	
If motorist was instructed / authorised to park in contravention of the restriction by the police.	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC35 where motorist states they were in police custody when PCN issued	
If proof (from the Police) has been provided that the police had instructed the motorist to leave the vehicle. If the time of arrest (proof required from the Police) provides confirmation that motorist was legally parked and was unable to move vehicle before the restriction started	If no proof provided If vehicle could have been legally parked before arrest

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC36 where motorist states they were visiting a friend or relative in urgent circumstances	
If due to an emergency the parking contravention could not be avoided due to the exceptional nature of the incident.	If motorist has already received a PCN, which has been cancelled for the same reason If the CEO's pocket book notes provides significant reason to doubt sincerity of representation

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC37 where motorist claims there was no legal place to park	
Only in the most exceptional of circumstances	In the absence of exceptional circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC38 where motorist claims they were parked on private property	
If land search maps confirm location is private property & not subject of the relevant Traffic Regulation Order. If there is insufficient evidence to establish location of vehicle	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC39 where motorist was delayed in returning to their vehicle parked in a limited waiting parking place	
If supported by appropriate evidence, the motorist's representations claim that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional. If motorist's vehicle had broken down, subject to concurrence with MC25, above). If the motorist was unable to drive, since parking the vehicle, Or had been were detained by the police for any reason.	If the delay described by the motorist was not exceptional, i.e. queuing in a shop. If the motorist simply underestimated the time needed and could have reasonably purchased more time. If the motorist was unable to drive since parking due to excess alcohol in the body

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC40 where motorist had parked while asking directions / opening gates to private property	
If evidence provided by the CEO does not contradict representations.	In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC41 where motorist stopped to answer mobile phone	
In no circumstances	On all occasions

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC42 where motorist states that the details on the PCN are incorrect, e.g. location	
If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the CEO	If the PCN was fully and correctly completed.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC43 where motorist states they were unaware of enforcement on Bank/Public holidays	
In no circumstances	On all occasions

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC44 where motorist states that restriction was marked after the vehicle had been parked	
If records confirm that signing/lining/ placement of cones or suspension notices was likely to have taken place after the vehicle parked.	If there is evidence to show that markings were already in place at the time of parking.