

Policy Guidance for the Enforcement of Penalty Charge Notices

(also known as Civil Enforcement Notices)

Contents

Section 1 - Introduction	2
Section 2 - Background to enforcement	3
Section 3 - The laws and regulations that cover parking enforcement	4
Section 4 - Our approach to enforcement	5
Section 5 - Parking contravention observation times	7
Section 6 - Statutory Grounds for Representation (appealing) a Penalty Charge.....	16
Section 7 - Our policy for considering mitigating circumstances	22
Section 8 - I have received a Penalty Charge. What should I do?	32
Section 9 - Frequently Asked Questions	34

Section 1 - Introduction

We have prepared this policy guidance to:

- inform the public about our enforcement policies, and;
- act as a point of reference to staff involved in the enforcement of parking regulations, so they make the right decisions.

Publishing this policy guidance demonstrates our commitment to improve standards within the parking industry and ensure our policies, procedures and standards are consistent, transparent and fair.

An important aspect of this policy guidance is that it allows us to exercise flexibility and discretion without fettering our responsibility to manage parking in line with national policy and our wider community and environmental objectives. That is why we have published a range of mitigating circumstances and what we need to see as proof, rather than to just state the circumstances that amount to a statutory exemption from a penalty charge.

This does not mean our enforcement policies and penalty charges are open to negotiation. It does mean each enforcement action will be taken professionally and proportionately. Professionally trained, qualified and experienced officers will consider mitigating and personal circumstances and will consider each appeal on its merits.

Section 2 - Background to enforcement

We have always had powers to enforce in our own car parks. In 2002, we also took over the police powers to enforce against parking contraventions on the roads within the borough.

The parliamentary order that gave us these powers defined the whole of the geographic area known as Rushmoor as an area where parking is decriminalised.

This means:

- a fixed penalty notice (a fine) previously issued under criminal law is now a penalty charge (a debt) under civil law;
- the owner (usually the registered keeper) of a vehicle is responsible for the debt even if they were not the driver;
- the penalty charge is discounted by 50% if you pay it within 14 days, after which it reverts to its full value. It also increases by 50% at a later stage if, after being served with a Notice to Owner, you do not successfully appeal and do not pay the penalty charge at its full value;
- the 'day in court' for those who want to appeal, is replaced by adjudication

The new powers also mean we can enforce on any land or road in the borough as long as a parking order has been created (there are statutory processes for doing this). In the case of private land, we must also have the agreement of the owner or landlord and we must show it is in the public interest to enforce on this land. For instance we have some car parks that are privately owned and we enforce there because they are in our town centres and would otherwise be abused. Other legislation allows us to enforce on military land.

In April 2008, new legislation extended the scope of enforcement:

- contraventions were reclassified as higher and lower (i.e. more serious and less serious) and the previous £60 penalty charge was scrapped and replaced by £70 for higher level and £50 for lower level. Both of these are still discounted by 50% if paid within 14 days;
- more contraventions were introduced.....double-parking, parking over dropped kerbs, parking on zig-zags and crossings, and verge parking (this contravention is subject to local parking orders);
- we can issue a penalty charge by post for a 'drive-away' or where CCTV is used;
- the new legislation paves the way for further decriminalisation such as enabling us to enforce against some moving traffic offences.

Section 3 - The laws and regulations that cover parking enforcement

In broad terms, there are four categories of law that cover parking enforcement:

- **primary legislation.** Section 6 of the Traffic Management Act 2004 is intended to bring forward appropriate provisions with the Road Traffic Act 1991 and the Road Traffic Regulation Act, 1984 (although in some areas there is still overlap);
- **devolved powers.** Statutory Instrument 2002/1352 confirms the delegation of powers to Hampshire County Council and Rushmoor Borough Council by decriminalising parking enforcement within the Borough of Rushmoor;
- **enforcement.** The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 govern the management and conduct of parking appeals in England and Wales (outside London);
- **lines and signs.** Statutory Instrument 2002 No. 3113, The Traffic Signs Regulations and General Directions 2002 sets out how roads should be laid out so parking restrictions are clear (but please note that within the directions there is often scope to vary signs, also within enforcement guidelines there is scope for allowing for 'wear and tear' and local conditions)

Section 4 - Our approach to enforcement

Our parking management activities are guided by the Council's corporate objectives to promote a **safe, clean, prosperous** and **high quality** environment.

To support these goals, our over-arching parking management objective is to encourage the use of off-street and other designated parking facilities and to introduce and enforce parking restrictions in order to maintain access and minimise the environmental impact of traffic. The specific aims are to:

- reduce congestion;
- reduce pollution;
- reduce danger to pedestrians by maintaining good lines of sight;
- reduce damage to verges and street furniture;
- ensure better access for public transport, deliveries, and emergency services;
- ensure residents are not disadvantaged by their proximity to town centres and public facilities.

With the above in mind our parking enforcement objective is to clear the streets of unlawful parking, encourage the most appropriate use of parking facilities, and maintain orderly parking in our car parks.

We believe, as a rule, that drivers must take responsibility for their actions and it is reasonable to expect drivers to use the parking facilities available and to respect the environment and the needs of others.

To this end, our approach is to patrol the borough on a regular basis at any time during which a parking restriction applies and to respond to public complaints and concerns about parking.

We are committed to use our enforcement powers professionally and to the highest standards. To achieve this, we have a number of 'rules' that are intended to make sure everyone is treated fairly:

- if the driver is in the vehicle that is contravening a parking restriction, we will always ask the driver to move the vehicle immediately. If the driver declines or is abusive, will we then issue a penalty charge;
- If a vehicle is parked unlawfully, we will not 'go looking' for a driver even if there is a note in the windscreen. If a vehicle is unattended and the driver does not return within the observation period, it will incur a penalty charge;
- we do not 'window tap' or phone to alert traders or residents to our presence;
- our enforcement officers cannot withdraw or cancel a penalty charge. However, they will be happy to record any information you give them that might help if you choose to appeal;
- enforcement officers will not accept payment for a penalty charge. It is very important that they are distanced from the outcome a penalty charge;
- if we enforce in a road or car park, we will issue a penalty charge to every vehicle that contravenes the parking order – we do not enforce selectively even if we are asked to deal with a specific situation;
- we are keen to assist and advise as well as to enforce, so our enforcement officers have delegated powers to issue dispensations in certain situations.

- when considering an appeal, our office staff will follow corporate diversity guidelines. This means (as examples) they will ignore references to profession or social status, ethnic origin, relationship with officers, councillors or others in a position of influence, unless this has a direct bearing on the circumstances leading to the penalty charge.

We are not expected to enforce with the objective of making money, but equally we are not expected to operate the service as a burden on the local rate-payer. Therefore, our enforcement officers are not set targets or given incentives for issuing penalty charges. They are expected to enforce with professionalism and a commitment to the above objectives and this alone should be enough to cover the cost of the service.

Section 5 - Parking contravention observation times

The following list shows all parking contraventions and codes used by enforcement authorities other than the police. Contraventions that apply in Rushmoor are shown with the observation times in red. A missing code (i.e. '03' means no contravention description has yet been allocated to this code)

Please note it normally takes 10 -15 minutes to observe and check a vehicle, take notes and photographs and issue the penalty charge notice. So invariably, the minimum observation period will have been met or exceeded when taking the observation times into account.

Code	Description	Contravention Level (seriousness) H = higher L = lower	Penalty Charge Amount if: (i) paid within 14 days (ii) paid after 14 days (iii) after Charge Certificate
01	On street- Parked in a restricted street during prescribed hours. Observation Time: 2 minutes (town centres and hotspots) 5 minutes (residential roads) 10 minutes for goods vehicles	H	(i) £35 (ii) £70 (iii) £105
02	On street- Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force. Observation Time: 0 minutes (instant PCN)	H	(i) £35 (ii) £70 (iii) £105
04	On street- Parked in a meter bay when penalty time is indicated. Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
05	On street- Parked after the expiry of paid for time. Observation Time: 0 minutes, but expiry time must be exceeded by at least 5 minutes	L	(i) £25 (ii) £50 (iii) £75
06	On street - Parked without clearly displaying a valid pay & display ticket or voucher (permit).	L	(i) £25 (ii) £50 (iii) £75

	Observation Time: 0 minutes (if driver not at ticket machine)		
07	On street- Parked with payment made to extend the stay beyond initial time Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
08	On street- Parked at an out-of-order meter during controlled hours Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
09	On street- Parked displaying multiple pay & display tickets where prohibited Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
10	On street- Parked without clearly displaying two (or more) valid pay and display tickets when required Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
11	On street- Parked without payment of the parking charge. Observation Time: 0 minutes (if driver not at ticket machine)	L	(i) £25 (ii) £50 (iii) £75
12	On street- Parked in a residents' or shared use parking place without clearly displaying either a permit or voucher or pay and display ticket issued for that place. Observation Time: 0 minutes (if driver not at ticket machine)	H	(i) £35 (ii) £70 (iii) £105
14	On street- Parked in an electric vehicles' parking place during restricted hours without charging Not used in Rushmoor	H	(i) £35 (ii) £70 (iii) £105
16	On street- Parked in a permit space without displaying a valid permit Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
18	On street - Using a vehicle in a parking place in connection with the sale or offering or exposing	H	(i) £35 (ii) £70 (iii) £105

	for sale of goods when prohibited Not used in Rushmoor		
19	On street- Parked in a residents' or shared use parking place/zone displaying an invalid permit or voucher or pay and display ticket Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
20	On street- Parked in a loading gap marked by a yellow line Observation Time: 0 minutes for non goods vehicles Goods vehicles 10 minutes*	H	(i) £35 (ii) £70 (iii) £105
21	On street- Parked in a suspended bay/ space or part of bay/space Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
22	On street- Re-parked in the same parking place/zone within one hour (or other specified time) of leaving Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
23	On street- Parked in a parking place or area not designated for that class of vehicle Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
24	On street- Not parked correctly within the markings of the bay or space Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
25	On street- Parked in a loading place during restricted hours without loading Observation Time: 0 minutes goods vehicles 10 minutes	H	(i) £35 (ii) £70 (iii) £105
26	On street- Vehicle parked more than 50cm (or other specified distance) from the edge of the carriageway and not within a designated parking place	H	(i) £35 (ii) £70 (iii) £105

	Observation Time: 0 minutes		
27	On street- Parked adjacent to a dropped footway Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
30	On street- Parked for longer than permitted Observation Time: 0 minutes, but expiry time must have been exceeded by at least 10 minutes	L	(i) £25 (ii) £50 (iii) £75
31	On street- (London only) Entering and stopping in a box junction when prohibited London only at present	N/A	N/A
32	On street- (London only) Failing to drive in the direction shown by the arrow on a blue sign London only at present	N/A	N/A
33	On street- (London only) Using a route restricted to certain vehicles London only at present	N/A	N/A
34	On street- Being in a bus lane	Awaited	Awaited
35	On street- Parked in a disc parking place without clearly displaying a valid disc Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
36	On street- Parked in a disc parking place for longer than permitted Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75
37	On street- (London only) Failing to comply with a give way to oncoming vehicles sign London only at present	N/A	N/A
40	On street- Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge. Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
41	On street- Parked in a parking	H	(i) £35 (ii) £70 (iii)

	place designated for diplomatic vehicles Not used in Rushmoor		£105
42	On street- Parked in a parking place designated for police vehicles Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
45	On street- Parked on a taxi rank Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
46	On street- Stopped where prohibited (on a red route or clearway) Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
47	On street- Stopped on a restricted bus stop/stand Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
48	On street- Stopped in a restricted area outside a school** Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
49	On street- Parked wholly or partly on a cycle track or lane 0 minutes	H	(i) £35 (ii) £70 (iii) £105
50	On street- (London only) Failing to comply with a sign indicating a prohibited turn London only at present	N/A	N/A
51	On street- (London only) Failing to comply with a no entry sign London only at present	N/A	N/A
52	On street- (London only) Failing to comply with a sign indicating a prohibition on certain types of vehicle London only at present	N/A	N/A
53	On street- (London only) Failing to comply with a sign indicating a restriction on vehicles entering a pedestrian zone London only at present	N/A	N/A
54	On street- (London only) Failing to comply with a sign indicating a	N/A	N/A

	restriction on vehicles entering and waiting in a pedestrian zone London only at present		
55	On street- A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
56	On street- Parked in contravention of a commercial vehicle waiting restriction Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
57	On street- Parked in contravention of a coach ban. 0 minutes	H	(i) £35 (ii) £70 (iii) £105
58	On street- (London only) Using a vehicle on a restricted street during prescribed hours without a valid permit London only at present	N/A	N/A
59	On street- (London only) Using a vehicle on a restricted street during prescribed hours in breach of permit conditions London only at present	N/A	N/A
61	On street- A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
62	On street- Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking) Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
63	On street- Parked with engine running where prohibited Observation Time: 5 minutes	L	(i) £25 (ii) £50 (iii) £75
70	Off street- Parked in a loading area during restricted hours	H	(i) £35 (ii) £70 (iii) £105

	without reasonable excuse Observation Time: 0 minutes Goods vehicle 10 minutes		
73	Off street- Parked without payment of the parking charge Observation Time: 0 minutes (if driver not at ticket machine)	L	(i) £25 (ii) £50 (iii) £75
74	Off street- Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited Observation Time: 10 minutes (to gather evidence)	H	(i) £35 (ii) £70 (iii) £105
80	Off street- Parked for longer than the maximum period permitted Observation Time: 0 minutes, but expiry time must have been exceeded by 5 minutes where the max. period of stay is 1hr or less, and 10 minutes in all other cases	L	(i) £25 (ii) £50 (iii) £75
81	Off street- Parked in a restricted area in a car park Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
82	Off street- Parked after the expiry of paid for time Observation Time: 0 minutes, but expiry time must have been exceeded by 5 minutes up to a 1-hr stay and 10 minutes on all other lengths of stay	L	(i) £25 (ii) £50 (iii) £75
83	Off street- Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
84	Off street- Parked with additional payment made to extend the stay beyond time first purchased Not used in Rushmoor	L	(i) £25 (ii) £50 (iii) £75

85	Off street- Parked in a permit bay without clearly displaying a valid permit Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
86	Off street- Parked beyond the bay markings (where adjacent bay is deemed unusable, or where parked completely out of bay) Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
87	Off street- Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge. Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
89	Off street- Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
90	Off street - Re-parked within one hour* of leaving a bay or space in a car park Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
91	Off street - Parked in a car park or an area not designated for that class of vehicle Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
92	Off street- Parked causing an obstruction Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105
93	Off street - Parked in car park when closed Observation Time: 0 minutes, but closure time must have been exceeded by at least 10 minutes	L	(i) £25 (ii) £50 (iii) £75
94	Off street- Parked in a pay and	L	(i) £25 (ii) £50 (iii)

	display car park without clearly displaying two (or more) valid pay and display tickets when required Not used in Rushmoor		£75
95	Off street - Parked in a parking place for a purpose other than the designated purpose for the parking place Observation Time: 0 minutes	L	(i) £25 (ii) £50 (iii) £75
96	Off street - Parked with engine running where prohibited Observation Time: 5 minutes to gather evidence	L	(i) £25 (ii) £50 (iii) £75
99	On street - Stopped on a pedestrian crossing and/or crossing area marked by zigzags Observation Time: 0 minutes	H	(i) £35 (ii) £70 (iii) £105

Section 6 - Statutory Grounds for Representation (appealing) a Penalty Charge

The following lists provide the main criteria for making representations (appeals) to the Council. In law, these criteria only apply when you have lost the opportunity to pay the penalty charge at the 50% discount. However, we feel we should consider appeals as soon as possible so if we accept the appeal you no longer have to worry about it, but if we decline, at least you have the chance to pay at the discounted rate for a maximum of 14 days after we respond to you.

It is important to stress that every appeal will be considered carefully and in detail. If we do not have sufficient information we will give you a reasonable opportunity to produce the additional evidence we need if we think your circumstances might justify cancelling the penalty charge. Our office staff are fully trained in the legislation that applies to enforcement, including the interpretation and use of traffic regulation orders. In normal circumstances we will respond to your appeal within 5 working days unless the matters raised are particularly complex.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1 The contravention did not occur:	
S1.1 Where the motorist claims they were loading/unloading (on-street)	
<ul style="list-style-type: none"> On a prohibition of waiting or in a controlled zone, if the following evidence is provided: <p>Goods delivered or collected were heavy or bulky and it would be unreasonable to carry them to/from a 'lawful' parking place, and; Loading/unloading activity was adjacent to the premises concerned, and; Loading/unloading activity was diligent (incl. checking goods and paperwork)</p>	<p>On restrictions prohibiting loading and unloading (i.e. on yellow lines with no loading/waiting signs and kerb flashings, on pedestrian crossings; school and bus clearways, urban clearways and taxi ranks. Also in reserved areas of car parks or where loading/unloading obstructs traffic flow and 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	
<p>If service records or reports confirm a fault or the machine was out of service at the time of the contravention. If there was not another ticket machine nearby which was operating correctly</p>	<p>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 other visitors purchased tickets during the relevant period.</p>
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.3 Where motorist claims that the restriction is not clearly signed or marked	
<p>If signs and/or markings are missing or unclear where the contravention occurred If signs and markings are</p>	<p>If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic</p>

inconsistent with each other and/or Traffic Regulation Order or legislation	Regulation Order. If the markings have breaks of less than 1.5mtrs (typically arising from road works) or wear and tear, so the restriction remains sufficiently clear to suggest the driver has taken advantage of the defect.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.4 Where motorist was carrying out building or statutory or emergency works (on-street)	
If evidence provided confirms the driver was loading/unloading in a permitted area (per S1.1) If a valid dispensation to park at the location had been issued and was on display in the vehicle. If works were exempted by a Traffic Regulation Order or by statute and the vehicle was one required to undertake those works If the works were an emergency that if not attended would endanger life or property or cause unjustifiable disruption to a trade or household	In all other circumstances Where the driver is unable or unwilling to provide satisfactory evidence of their exemption or the circumstances claimed.
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 or other records confirm the PCN was not handed to the driver or fixed to the vehicle (Regulation 9 PCN) If the same records confirm the PCN could have been handed to the driver or fixed to the vehicle (Regulation 10 PCN)	If the CEO's notes or other records confirm that a PCN was correctly served (Regulation 9 PCN), or that it was not possible to serve the PCN (Regulation 10 PCN)
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.6 Where the motorist claims their vehicle was not parked in the location at the time and on the date alleged on the PCN	
If the driver provides a copy of their vehicle registration document and vehicle excise license (valid at the time of the contravention), and these differ from the information provided by the CEO to suggest an error has been made or a vehicle bearing false plates has been observed.	If the driver does not provide a copy of their registration document and/or tax disc, after being given an opportunity to submit this information. If the vehicle details or the serial number on the tax disc provided by a driver are identical to the information provided by the CEO.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.7 Where motorist claims a valid authorisation to park had been issued	
If records show the driver holds a valid authorisation for	If the motorist cannot provide the authorisation to park and there is no record of the authorisation If the

that vehicle to park.	motorist did not park in compliance with the authorization If the authorisation was revoked because of default on payment or abuse of a previous 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 valid parking ticket for the time and location when the Penalty Charge Notice was issued and the details provided by the CEO confirm the ticket was in the vehicle (i.e. face down or partially obscured)	If the motorist is unable to produce a valid parking ticket If the CEO observed a ticket was obtained from another driver or recorded a conversation with the vehicle driver or occupant(s) that a ticket had not been purchased. If a driver produces a valid ticket that was not clearly on display, but has previously been advised of the need to clearly display a ticket
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S2 The penalty charge exceeded the relevant amount	
If the Penalty Charge Notice or the Notice to Owner show the incorrect amount (i.e. the wrong penalty charge band)	If the Penalty Charge Notice or the Notice to Owner show the correct amount owed.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S3 The penalty charge has already been paid in full or has been paid at the reduced amount within the specified period	
If our records show the PCN was paid in full (i.e. the amount due on the date it was paid). If the appellant produces evidence that the PCN was paid in full (i.e. the amount due on the date it was paid). If we have entered into an arrangement to pay that has been overlooked	If there is no proof of payment, or payments made do not amount to the total due if it is evident the appellant has paid only the sum they consider appropriate to pay. If it can be shown that a non-cash payment has been dishonoured or reversed If an arrangement to pay was granted but payments were not made by the specified dates.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S4 The Traffic Regulation Order was invalid	
If it can be shown the Traffic Regulation Order: Fails to specify the restriction that gave rise to the alleged contravention. Was not 'made' in accordance with statutory requirements.	If the Traffic Regulation Order is correct and lawful If the driver just considers the restrictions to be unfair or sees others 'getting away with it' If the driver claims to have been forced to park unlawfully because of the actions of others.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S5 The recipient of a Notice to Owner (or a PCN in the case of a Regulation 10	

PCN) was not the owner/keeper of the vehicle at the time of the contravention:

S5.1 Where the current registered keeper claims the vehicle was disposed of before the contravention occurred

If the current registered keeper is able to provide proof the vehicle was disposed of before the contravention, i.e. a bill of sale, new insurance documents or a letter from DVLA, and Provides the name and address of the new keeper.

If the current registered keeper is unable to provide the specified proof of disposal. If the bill of sale or the new keeper information gives rise to suspicion of authenticity. The representation may be accepted, but a new Notice to Owner may subsequently be issued if the information proves to be false or the new keeper advises they acquired the vehicle after the contravention.

MAY ACCEPT REPRESENTATIONS

MAY REJECT REPRESENTATIONS

S5.2 Where the current registered keeper claims that the vehicle was purchased after the contravention occurred

If the current registered keeper is able to provide proof the vehicle was purchased after the contravention, i.e. a bill of sale, new insurance documents or the new registration document, and Provides the name and address of the person or business from whom they purchased the vehicle.

If the current registered keeper is unable to provide the specified proof of acquisition. If the bill of sale or the previous keeper information gives rise to suspicion of authenticity The representation may be accepted, but a new Notice to Owner may subsequently be issued if the information proves to be false or the previous keeper advises they sold the vehicle before the contravention.

MAY ACCEPT REPRESENTATIONS

MAY REJECT REPRESENTATIONS

S5.3 Where the current registered keeper claims that a third party was responsible for the vehicle at the time of the contravention

Only when a hire agreement exists (see policy S7, below)

In all other circumstances, including where the vehicle was left in the care of a garage

MAY ACCEPT REPRESENTATIONS

MAY REJECT REPRESENTATIONS

S5.4 Where the appellant claims they never owned the vehicle

If DVLA confirms the appellant was not the registered keeper at the time of the contravention

If DVLA confirms the motorist was the registered keeper of the vehicle at the time of the contravention. If the previous registered keeper provides proof that the appellant bought the vehicle before the contravention, or the subsequent registered keeper provides proof that the appellant sold the vehicle after the contravention. If the appellant 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 policy S6, below)

MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS	
S6 The vehicle had been taken without owner's consent			
S6.1 Where the registered keeper claims the vehicle had been stolen			
If the registered keeper provides a valid police crime report reference number.		If the registered keeper fails to provide a crime report reference number or the number provided does not exist on police records or does not match the alleged theft or date of theft.	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS	
S6.2 Where the registered keeper claims the vehicle was driven by a third party			
In no circumstance		In all circumstances as the registered keeper is always liable except when a hire agreement originated by a bona fide company exists (see policy S6, below)	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS	
S7 The owner is a hire company and has supplied the name of the hirer			
<ul style="list-style-type: none"> If the hire company supplies a copy of the signed agreement with the full name and address of the person to whom the vehicle was hired and that agreement contains a clause transferring responsibility for parking/driving contraventions to the hirer. <p>ACTION POINT - a new Notice to Owner will be served on the person named by the hire company</p>		<p>If the hire company fails to provide the specified agreement, or if that agreement fails to specify enough detail about the hirer to issue a new Notice to Owner. ACTION POINT - a new Notice to Owner will be served on the hire company where further enquiries reveal the person named by the hire company does not exist, cannot be traced or, in the absence of a relevant clause, denies responsibility for the contravention. If the vehicle was being used as a courtesy car without a formal agreement.</p>	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS	
S8 (only for Regulation 10 Penalty Charge Notices issued by post) The Enforcement Officer was not prevented from fixing the PCN to the vehicle or handing it to the driver			
If the evidence of the Enforcement Officer does not include a description of the driver and a statement that the driver either refused to accept the PCN or obstructed the Officer from attaching it to the vehicle, or drove the vehicle away before the PCN was served.		If the evidence of the Enforcement Officer is considered to be robust. If the PCN was served on the grounds of a contravention evidenced through CCTV surveillance.	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS	
S9 Any other information the motorist / vehicle owner requests the Council to take into consideration			
<ul style="list-style-type: none"> The decision whether or not to cancel or waive a Penalty Charge Notice, will 			

be taken following consideration of the circumstances described by the appellant, the evidence gathered by the Enforcement Officer, and any other policies that apply.

MAY ACCEPT REPRESENTATIONS

MAY REJECT REPRESENTATIONS

S10 There has been procedural impropriety by the enforcement authority

- The appellant will need to show how the enforcement action taken and any documents served have not complied with legislation and statutory guidance, or that representations that relate to the parking contravention or procedure have not been given reasonable consideration.

The appeal will be looked at by an officer who has not previously had dealings with the case. The appeal will be dismissed if no procedural impropriety is found (i.e. the appellant simply believes the penalty charge is unfair or disagrees with our decision when it is clear all the circumstances have been considered and the decision is in line with those made in similar situations and is also in line with policy)

Section 7 - Our policy for considering mitigating circumstances

The following lists provide the main criteria for considering mitigating circumstances. Once again, in law, these criteria only apply when you have lost the opportunity to pay the penalty charge at the 50% discount. However, we feel we should consider these circumstances as soon as possible, even if the statutory grounds for appeal do not apply.

It is again important to stress that every appeal will be considered carefully and in detail. It is also important that we are aware of the detail of the mitigating circumstances so we have the best chance of making the right decision. Our office staff will look at your circumstances sympathetically, and the following list of circumstances, by no means comprehensive, will indicate the sort of information we need to consider your appeal. We have put these circumstances under sub-headings as best we can, to assist you to find those that may be similar. If you cannot find similar circumstances but still wish to appeal, please write to us or phone us for advice.

Health, Medical Emergency, Bereavement

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC1 The driver/passenger claims to have become unwell while driving or whilst parked	
<ul style="list-style-type: none"> If the appellant provides proof of a medical condition the symptoms of which are consistent with those described. <p>When the notes made by the Enforcement Officer or the account of a credible independent witness support the representations made</p>	<p>If the appellant fails to provide proof of a medical condition, or where other evidence contradicts the representations made.</p>
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC2 The driver claims to be a doctor, nurse or health visitor attending a patient in an emergency	
<ul style="list-style-type: none"> In circumstances that fall into the category of a statutory exemption due to provisions within the Traffic Regulation Order. <p>If the appellant has a Medical Dispensation badge (i.e. BMA) and is able to disclose sufficient information or verify the need to park in contravention.</p>	<p>If the medical practitioner was not attending a patient in urgent circumstances, if the location was some distance from the patient, or if there were legal parking spaces nearby. If the medical practitioner parked outside their practice or other place of work If evidence or enquiries contradict the information given.</p>
MAY ACCEPT	MAY REJECT REPRESENTATIONS

REPRESENTATIONS	
MC3 The driver stopped to use the toilet or similarly to assist a passenger	
<ul style="list-style-type: none"> If the appellant provides proof of a medical condition the symptoms of which are consistent with the unexpected need to use a toilet <p>Where the evidence of the Enforcement Officer confirms the circumstances</p>	<p>If a vehicle is not parked in close proximity to a public convenience or building that contains one If the vehicle is parked for a period inconsistent with the alleged purpose If evidence suggests the account of events is false</p>
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC4 The motorist stopped to collect (prescribed) medication from a chemist or to deliver it to a patient	
<ul style="list-style-type: none"> Only in the most exceptional circumstances, supported by a letter from a GP or hospital, and where the use of 'legal' parking would have caused unacceptable delay. 	In all lesser circumstances.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC5 The driver was alone and a patient visiting a doctor's surgery	
<ul style="list-style-type: none"> If the appellant provides a letter from the GP to confirm the visit was urgent and the driver was unable to walk from the nearest legal parking space. 	<p>If the driver was not the patient If the motorist was attending a pre-arranged appointment If the driver could have parked legally elsewhere..</p>
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC6 The driver claims to have been recently bereaved (so behaviour erratic or confused)	
<ul style="list-style-type: none"> If the appellant provides a copy of the Death Certificate or the date of bereavement, the name and address of the deceased, and the relationship of the driver to the deceased. 	<p>If the bereavement was some time ago or a distant relationship If there is a significant reason to doubt the sincerity of the representation (such as evidence or enquiries).</p>
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC7 The driver claims they were attending a funeral	
<ul style="list-style-type: none"> If there is no alternative parking at the church, cemetery, or at the post- 	<p>We will deal with this sensitively, but we may reject if arrangements put in place for the funeral, were not used, or parking was</p>

ceremony gathering.	inconsiderate or obstructive.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC8 The registered keeper has died	
Where confirmed by Death Certificate.	Where the Death Certificate is dated before the parking contravention, therefore a new keeper may be responsible for the PCN (further enquiries needed)

Delay or Over-Stay

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC9 The motorist was delayed in returning to the vehicle and exceeded the maximum period of stay for a parking restriction or the time purchased on a pay-and-display ticket	
If the circumstances were unforeseen, unavoidable and exceptional, and supported by evidence. Examples might be driver became unwell, driver detained for alleged crime, child lost and reported to police/centre security etc.	<ul style="list-style-type: none"> Mindful of the period of grace given after the expiry of a ticket, any circumstance where the driver could have returned to the vehicle, even if that meant aborting a queue or setting aside a transaction. <p>Evidence that suggests the driver was not unavoidably detained</p>
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC10 The driver bought more parking time to stay in the same parking place beyond the maximum period of stay, or returned to the same place within the specified period of 'no return'	
<ul style="list-style-type: none"> In no circumstances 	the act of purchasing more time or returning suggests the driver is available to move the vehicle.

Failure to Display a Valid Ticket or Permit

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC11 The driver left the vehicle parked without a valid ticket on display to obtain change	
If the driver returns just as the PCN is being issued (i.e. at the end of the observation period) and indicates to the Officer they had been for change and bought a ticket en-route back to the vehicle. If the driver returns just as the PCN is being issued (i.e. at the end of the observation period) and shows the Officer a valid ticket bought but not displayed (i.e. taken from purse/wallet)	If the Enforcement Officer notes the driver returned to the vehicle having completed their purpose for parking during the observation period or after the PCN is issued, i.e. carrying shopping, or asks another driver for their ticket (a pass-over), or drives away without purchasing a ticket. If the PCN has subsequently been issued as a Regulation 10 PCN following a vehicle drive-away where the

	driver could have explained the circumstances to the Enforcement Officer, but did not do so.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC12 The driver claims to have been unaware of charges or restrictions in the car park.	
If the car park entrance sign is missing or does not show the car park is subject to charges. If the machine front panel or VDU information is incorrect or missing. Restrictions - if the 'terms and conditions of use' notice boards are missing.	If in our opinion, the driver did not make reasonable effort to establish a charge was payable and would have been aware had he/she done so, or the driver made no attempt to use another ticket machine at a multi-machine location. If the parking restriction is clear without the need for signs (such as hatched areas and parking out of bay when the car park is clearly marked with bays)
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC13 The driver claims to have been unaware of recent rise in tariff	
If, within 14 days of a recent change in tariff, the driver has accidentally bought a ticket at the previous tariff. If we did not follow statutory procedures for establishing the change in tariff.	If circumstances or information suggest the driver was aware of the change in tariff.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC14 The driver is a new resident within a residents' permit area and assumed as such they could park without displaying a valid residents permit, or the new resident did not have qualifying documents to acquire a permit but still parked	
Not in the above circumstances as drivers have a responsibility to adhere to the restrictions and we will sell temporary permits (scratchcards) until a new resident can submit qualifying documents	In most circumstances
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC15 The driver displayed an expired authority to park, i.e. Blue Badge, residents permit, visitors permit, season ticket or dispensation	
If renewal of the authority to park was delayed by the administrative processes of the issuing authority. Other unforeseen circumstances delaying renewal i.e. sickness, postal dispute/delays (supported by appropriate evidence) A PCN issued 'in error' within 14 days of the expiry of a Blue Badge	In most other circumstances as it remains the responsibility of the driver/keeper to renew in good time even though it may be the policy of the issuing authority to send out reminders.

Blue Badge or Disabled Parking Space

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC16 The driver is (or is transporting) a Blue Badge holder and a valid Blue Badge (and clock where there is a time limit) was not on display or could not be read or had expired	
If this is the driver's first contravention and they can prove they are a Blue Badge holder or were transporting a Blue Badge holder.	I If the driver has previously had a PCN cancelled for the same contravention. If the driver was parked on a waiting restriction beyond the permitted time limit or on a restriction for which the Blue Badge does not provide an exemption. If circumstances or information suggest the Badge was on display in another vehicle or being used by another person, or the vehicle was not transporting a badge holder.
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC17 The vehicle is displaying a Blue Badge in a permit area.	
On the first occasion if the driver/badge holder is a visitor to the area. If parked in a designated disabled space (the PCN will have been issued in error)	If the badge holder is a resident (Blue Badge holders are not exempt from the residents' parking schemes and need to purchase a permit)

Parking in an Inappropriate Position

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC18 The driver parked with one or more wheels outside of a marked bay in a car park	
In exceptional circumstances such as a medical emergency (but this would also depend on the location in the car park).	If not in acceptable exceptional circumstances (we will not issue a PCN unless the vehicle is substantially out of bay such as to cause obstruction or to prevent others using adjacent bays, and this will be supported by photographic evidence)
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC19 The driver claims the restriction does not apply as double parked or parked on verge	
Where the location of the parked vehicle is on private land or falls outside the scope of the Traffic Regulation Order or 'national' legislation. Note: a parking restriction is normally effective from the centre line of the road to the boundary of any property, so the restriction would normally include the footpath and any grass verge, and could include areas of open-space.	Where there has been an assumption by the driver, that a restriction does not apply and the conduct of the driver appears to defy that expected in the Highway Code.

Note: some parking restrictions do not require yellow or white lines i.e. HGV parking on any footpath/verge anywhere, parking over drop kerbs, parking within a controlled parking zone.

Absence of Awareness

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC20 The driver claims to have been unaware of the existence of a parking control	
If it can be shown that a sign was missing, inaccurate or materially damaged or defaced, or the road markings are missing or in a poor state of repair (but note the representations could fall within 1.3 above which are statutory grounds for appeal)	If it appears that the driver has taken advantage of a flaw in the restriction when it is clear a restriction applies, or the driver/keeper argues non-compliance with legislation that is a matter of interpretation (as examples, we do not normally issue a PCN to a vehicle that is 50% or more in a lawful parking place with the remainder of the vehicle in contravention, unless the overhang causes an obstruction. Similarly we will not issue a PCN to a vehicle on a yellow line that is broken for more than half the vehicle length unless this causes an obstruction)

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC20 The driver claims they were unaware of parking restrictions/enforcement/charging on Sundays/Public holidays	
Only where enquiries show there to be an error in the regulations, signage or operation of ticket machines.	Where the driver assumed the restrictions or charges did not apply, or knew this was the case but assumed there would be no enforcement

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC22 The driver assumed they were entitled to "a period of grace"	
Not in the above circumstances.	Periods of grace are given to allow a driver to comply with a parking restriction. They are not given as an exemption from the restriction

Weather

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC23 The driver claims snow, fallen leaves, flooding or foliage covered signs or markings	
If it is agreed that conditions prevailed that substantively obscured the restriction.	If the Enforcement Officer's evidence directly contradicts the appellant's version of events or the claims of the appellant could not have occurred. If other information suggests the driver was aware of

	the restriction but used the inclement weather or circumstances to procure more advantageous parking.
--	---

Breakdown or Emergency

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
----------------------------	----------------------------

MC24 The driver claims their vehicle had broken down

If the appellant is able to provide evidence of breakdown, i.e. proof of vehicle recovery or a bill of sale for repair or parts that relate to a breakdown.

If the appellant is unable to provide evidence of breakdown. If the cause was due to negligence (i.e. run out of petrol or water or similar). If the Enforcement Officer's evidence contradicts the motorist's version of events.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
----------------------------	----------------------------

MC25 The driver claims they were attending an emergency

If the appellant is able to provide proof of the emergency, i.e. a credible report of an accident or incident.

If the appellant is unable to provide evidence or further enquiries are contrary to the claim made. If the Enforcement Officer's evidence contradicts the motorist's version of events.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
----------------------------	----------------------------

MC26 Where the vehicle was on police, fire brigade or ambulance duties

If we receive a letter on official letterhead signed by a senior officer of the service and who was not the driver, to confirm the vehicle was engaged in an emergency response that required parking in contravention of the restriction.

In all other circumstances unless the Traffic Regulation Order also provides statutory exemption.

Security

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
----------------------------	----------------------------

MC27 The driver claims to have been collecting or delivering bullion or other high value items

If the appellant produces a delivery or collection docket and the vehicle is in very close proximity to the premises (there may be a statutory exemption if loading/unloading)

In all other circumstances

Other

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
----------------------------	----------------------------

MC28 The registered keeper liable for the PCN is expected to be absent for a long period

Only in the event that the vehicle is being used unlawfully in the absence of and without the consent of

In all other circumstances

the keeper.		
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS
MC29 The vehicle carries diplomatic plates		
If statutory exemption applies within the Traffic Regulation Order.	No other circumstances, but all correspondence must be with the Foreign and Commonwealth Office (Vienna Convention on Diplomatic Relations & Diplomatic Privileges Act 1964)	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS
MC30 The driver received a Fixed Penalty Notice (FPN) from a police officer when parked in the same location		
If the FPN fine has been paid to the police or Magistrates' Court.	In all other circumstances	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS
MC31 A Council officer, contractor, or Councilor, claims to have been on Council business		
If confirmed by a senior manager in written form that the driver was engaged in an emergency call-out or on statutory work on the highway.	If the driver was not on emergency or statutory work	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS
MC32 Extended 'setting down' (driver had to escort a child or elderly or disabled person)		
If the driver provides supporting information about the person carried and a credible explanation about the need to be absent from the vehicle (and out of sight of the Enforcement Officer) for a period greater than the total time needed to observe the vehicle and issue a PCN (which normally is 15 minutes). This would suggest exceptional circumstances.	If the driver parked or stopped on a restriction that prohibited these actions under any circumstances (i.e. a school clearway, pedestrian crossing, bus stop clearway, yellow line with kerb flashing) If the evidence of the Enforcement Officer suggests a different account of events.	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS
MC33 The driver claims they parked unlawfully because someone else had occupied 'their' parking space unlawfully		
Only in the most exceptional circumstances, to be considered on merit	We will not normally accept this argument as 'two wrongs do not make a right'	
MAY ACCEPT REPRESENTATIONS		MAY REJECT REPRESENTATIONS
MC34 Driver claims they were parked on private property		
If land search maps confirm the location is not subject of	In all other	

the relevant Traffic Regulation Order. If there is insufficient evidence to establish the precise location of the vehicle where there is scope for doubt	circumstances.
--	----------------

Incorrect Penalty Charge or Wrong Vehicle

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
-----------------------------------	-----------------------------------

MC35 The driver claims the details on the PCN are incorrect, e.g. location, date/time, VRM, colour etc

If there is reason to doubt the PCN was issued correctly, taking into account evidence provided by the Enforcement Officer (or the CCTV record in the case of a Regulation 10 PCN), and the evidence of the appellant.	If the PCN was fully and correctly completed. Note: an incorrect make/colour does not in itself invalidate a PCN (the VRM and tax disk numbers are definitive). An incorrect parking location or date does invalidate the PCN. A time difference may not invalidate the PCN as this may be due to differences in the PCN issue and driver return times.
--	---

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
-----------------------------------	-----------------------------------

MC36 The driver/appellant claims the PCN was not on the windscreen when they returned to the vehicle (normally a representation against the Notice to Owner)

Where the evidence of the Enforcement Officer is inadequate to prove the PCN was lawfully served.	Where the Enforcement Officer's evidence shows the PCN was handed to the driver or a person purporting to be the driver. Where the driver refused to accept the PCN or to allow it to be fixed to the vehicle, so it was served by post (a Regulation 10 PCN) Where the driver drove off before the PCN could be served but nevertheless the contravention occurred so the PCN was served by post (a Regulation 10 PCN) Where the contravention was evidenced by CCTV and the PCN was served by post (a Regulation 10 PCN)
---	---

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
-----------------------------------	-----------------------------------

MC37 The appellant claims a Regulation 10 PCN/NtO served by post was not received

Only in exceptional circumstances such as a prolonged industrial action by Post Office staff or a loss of mail confirmed by the Post Office	No other circumstances - a PCN/NtO is deemed to have been served on the second day after posting by first class mail.
---	---

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
-----------------------------------	-----------------------------------

MC38 The appellant claims the contravention did not occur because the vehicle has never been in the area (normally a representation against the Notice to Owner)

Where the appellant produces: a letter from the police or DVLA advising the vehicle has been cloned a copy of the tax disk on the date of	Where the vehicle details match or the appellant fails to produce evidence to support the claim.
---	--

contravention that differs from that observed information that proves the vehicle observed could not have been the keeper's vehicle	
--	--

Section 8 - I have received a Penalty Charge. What should I do?

- a penalty charge notice is issued to a vehicle for an alleged contravention;
- the driver or the keeper has 14 days to pay the penalty charge at the discounted rate (£25 for a lower level contravention or £35 for a higher level contravention). After that it reverts to its full rate of £50 (lower) or £70 (higher);
- the driver or the keeper can challenge the penalty charge. If the challenge is received within 14 days, the discount period is suspended and if the challenge is accepted the penalty charge is cancelled. If it is rejected we may offer another 14 days to pay at the discounted rate;
- if the challenge is received after 14 days we will still consider it but if it is rejected the penalty charge normally stays at the full amount of £50 or £70 unless we accept your explanation for 'appealing' late;
- if no payment or insufficient payment is received or no challenge is made within 28 days, we contact DVLA who provide us with details of the registered keeper and then we send out a Notice to Owner. This tells the keeper that he/she is expected to pay the penalty charge or appeal, otherwise the penalty charge will increase to either £75 or £105.
- if an appeal is received in response to the Notice to Owner (at this state it is called a representation), we consider it and if accepted the penalty charge is cancelled. If it is rejected we issue a Notice of Rejection and ask for payment of the penalty charge. In our Notice we advise about the adjudication process if you still wish to challenge the penalty charge.
- there is no cost to apply for an adjudication but equally an adjudicator rarely awards costs – the adjudicator simply makes a decision and the appeal is either won or lost. If the appeal is lost the penalty charge is still payable. The keeper can have a postal or telephone adjudication or a personal hearing locally. The decision of the adjudicator is normally binding on the council and the appellant unless the adjudicator has acted unlawfully or based the decision on circumstances that are outside his/her powers.
- if a keeper does not pay within 28 days of the Notice of Rejection or within 28 days of the adjudicator's decision, a Charge Certificate is sent to the keeper. This means the penalty charge has increased to either £75 or £105.
- if this is not paid within 21 days the council will apply to the court to register the debt. The court will charge £5 for this and it is added to the above amount.
- if this isn't paid within 21 days the council will ask the court to issue a Warrant for the debt, which means a bailiff can be appointed. The bailiff also charges for recovery of the debt (these charges are set by the courts). The bailiff has the power to seize goods and sell them to recover the debt.
- finally, a keeper can make a declaration to the court that they have not received certain documents (normally if they have moved and not told DVLA). The court will not cancel the penalty charge but will instruct the council to Issue a new Notice to Owner at the £50 or £70 amount if we wish to continue with enforcement. This will open up the process to the previous appeal stages. The council can ask the court to reject the declaration if it can show that a false statement has been made. The police can also investigate if a false statement has been made.
- It is very important that you either pay the penalty charge early or write to us with an 'appeal'. If you do nothing or you do not act quickly you may lose your right to pay the penalty charge at its discounted rate and ultimately you may

be required to pay considerably more because of surcharges and recovery fees

Section 9 - Frequently Asked Questions

How do I pay a Penalty Charge?

As long as you are sure about the amount you need to pay and you have a credit or debit card, you can do this on line at www.rushmoor.gov.uk or by phone (01252) 398 373 Please ensure you have your card details and PCN number to hand.

You can also pay by post with a cheque or with postal orders (please do not send cash). Please send your payment to the address on the reverse of the penalty charge notice or as stated on any other statutory notice sent to you that refers to the charge. If you still have the envelope that the penalty charge was in when it was issued, you can use this because the payment address is pre-printed on it.

Please make sure you quote the penalty charge number when making payment and ideally include your name and address or telephone number in case there is a query such as a cheque not filled out correctly or it is the wrong amount. If you are taking advantage of the 14 day discount period and are paying by post you are advised to use first class post and allow 2 working days for your payment to reach us, and you are advised to call us on the 15th day to ensure we have received your payment. Please also note that we do not accept post-dated cheques without prior arrangement – if you make payment in this way you may forfeit your right to the discounted payment.

You can also pay in person in cash or by cheque, postal order or card at the council offices in Farnborough.

I don't know how much I should pay, or I have several penalty charges and I don't know which one I should pay first?

Call us or visit the council offices. We can tell you how much you owe and the date by which they must be paid. If you have more than one penalty charge and you cannot afford to pay them all, we can advise you on the best sequence of payments to minimise the total amount you have to pay.

I don't have the money to pay the penalty charge. What should I do?

Call us, visit us, or write to us urgently. In some circumstances, we will accept payment of a penalty charge in installments. When the first payment is made the charge will be frozen as long as the payments are maintained according to the agreement we make with you.

We should mention that we expect a penalty charge to be cleared in a matter of weeks. Where a person has unnecessarily allowed the penalty charge to increase to its highest level or where there are multiple contraventions, we normally refer the keeper to the local Citizen's Advice Bureau that has the means to authenticate claims of hardship that might require a long-term arrangement.

Please remember that if you ignore a penalty charge it could increase from £25 or £35, to £75 or £105 within a few months and bailiff charges can soon increase the

total debt to several hundred pounds. The earlier you contact us the easier it is for us to help you and minimise your debt.

I can't afford to pay the penalty charge will you accept a smaller amount?

The council does not 'negotiate' penalty charge levels because this is unfair to others and cuts across the legislation. We might revert a penalty charge to its lower level in some circumstances, but we will not accept an amount in full settlement that is lower than the proper amount owed.

I thought my penalty charge was for a specific amount and I paid it but you still want more. Why is this?

The most common reasons are:

- you made payment by cheque and it 'bounced';
- you made payment late and the penalty charge increased because of this (payment is considered in law to be made on the day on which we receive it, not the day it was posted to us or the day we chose to process it);
- you paid too little in the first place;
- you wrote a post-dated cheque that could not be banked before the penalty charge increased;
- you thought someone else was going to pay the penalty charge and they didn't;
- you made the correct payment but forgot to include information that linked the payment to the case (such a registration mark, penalty charge number);
- you ignored a letter rejecting an 'appeal';
- you ignored the original penalty charge or other documents that explained that the charge would increase if no action is taken;
- the case has been referred to the court or to bailiffs

In the case of misdirected payments we normally revert the penalty charge to the level on the date payment was received. We can do this if we can link the payment to the charge (we may ask you to provide a copy of your cheque or receipt slip to verify this link and we will reimburse any bank charges if it was our fault rather than yours)

In most other cases we do not revert a penalty charge to a lower level unless instructed to do so by an adjudicator or by the court.

I have received demands for payment from the bailiff. Who do I pay?

The debt will be due to the bailiff, not the council. If you pay the council we will retain £80 or £110 (this is the maximum the council can recover, being the charge plus the £5 court fee), and pass the balance to the bailiff to be set against their costs. You will remain liable for any outstanding charges levied by the bailiff that are not covered by your payment to the council.

Appealing against a Penalty Charge

How do I 'appeal' to the council?

This must be by letter or e-mail. This is because we are audited to make sure we deal with cases properly and our decisions are in line with our policies. So we must have evidence of the 'appeal' to support our decisions.

When you contact us please make sure you include your name and address, who was driving and who is the keeper of the vehicle (if they are different), the penalty charge number, the vehicle registration mark, and the date of the contravention (as a cross-check). Please tell us about the circumstances that led to the penalty charge notice being issued and why you believe it should be waived. You should provide as much detail as possible because this helps us to identify all the facts and circumstances and come to a decision as quickly as possible.

I have difficulty in reading, writing or expressing myself – what do I do?

We can help you if you come into the council offices. Someone who is not directly involved in enforcement will write your appeal if you tell them what happened and why you feel the penalty charge should be cancelled. They will read it back to you and will ask you to sign it.

Alternatively, a friend or relative, the local Citizen's Advice Bureau, or your local councilor might help you write a letter, but please make sure it is clear who was driving the vehicle and who owns the vehicle owner, so we can write back to the right person.

How long does it take to make a decision on an appeal?

Normally we will look at your appeal on the day it is received and if the circumstances are relatively straightforward, we will reply to you within 1 or 2 days. Occasionally we receive an appeal that is more complex or raises a legal challenge and this can take a few days longer. In either case please don't worry - if we receive your appeal within 14 days of the penalty charge being issued you will not be asked to pay £50 or £70 if the appeal is rejected however long it takes us to reply to you. Similarly, if your penalty charge is already at £50 or £70 when you appeal we will not add surcharges until we have considered your appeal and if rejected we have given you at least 14 days to pay.

Who can I talk to about this?

We are happy to give you further advice if you are unsure about what you need to do. Many people call us to explain the circumstances leading to the penalty charge and expect us to make a decision 'on the spot'. Unfortunately, we cannot do this as we need written evidence of why you feel the penalty charge should be cancelled, and we may need to look at the notes made by the Enforcement Officer and any photographs taken. We may also need to make a site visit if, for instance, you claim that lines or signs are missing or damaged.

Can my Local Councilor or MP or Citizens Advice Bureau help?

Yes. They hold office to advise and assist you, and they may choose to make representations on your behalf. However, they cannot interfere with the processes of enforcement or the decision on whether or not to accept an appeal.

In this way we are able to demonstrate that everyone is treated fairly, whether or not they enlist the help of another person or organisation.

We therefore ask that you take note of the following:

- we will consider any representation on your behalf as if it were your own 'appeal' (i.e. no 'weight' will be placed on our consideration of your penalty charge because of the status of another person representing you);
- we automatically advise our auditors of any representations made to or by an officer of the council who is not authorised to consider penalty charge appeals;
- we will not put cases 'on hold' or in any way interfere with the normal enforcement steps and timescales set out in legislation arising from the untimely or inappropriate representation of another person;
- we will always consider relevant evidence from a third party, so this should not be confused with canvassing to get a penalty charge waived when it would otherwise remain payable.

I returned to the vehicle while the 'Attendant/Warden' was there and I appealed to him/her - why didn't they withdraw the penalty charge notice?

Our Enforcement Officers are under a standing instruction that once a penalty charge has been printed it cannot be withdrawn and the driver or keeper must appeal to us in the normal way. We do this because if officers are allowed to withdraw penalty charges this could lead to allegations of corruption and inconsistent enforcement.

I was the driver and I don't want the owner to find out?

Legislation dictates that after 28 days we must issue a Notice to Owner to the registered keeper. The only safe way of concealing a parking contravention (and as a consequence the whereabouts of the vehicle, driver and passengers) from the keeper is either to pay the penalty charge immediately or to challenge it quickly and pay the charge if the challenge is not accepted. A full payment closes a case and there is no retrospective notification to the keeper.

I was the driver but I am not the owner – can I appeal?

Yes, you can appeal and we will write back to you in the first 28 days. However, please remember that the keeper is liable for the penalty charge so as soon as we receive these details from DVLA we will issue a Notice to Owner and from that point on, we must correspond with the keeper.

I changed residence so didn't receive your Notices?

You will still be liable for the penalty charge. The level of charge will depend upon the circumstances and the evidence you put forward. You need to prove that you have moved and the date of that move. Please note that it is an offence to fail to advise DVLA promptly of your change of address and your insurance may be invalidated if you do not advise your insurer. While this in itself has no bearing on our

consideration of any appeal, the absence of these disclosures could place doubt on your claim if you have no other means of substantiating a change of address.

Why is the keeper (owner) liable, not the driver?

This is what the law says, not the council. When the police enforced parking 'offences', the driver was normally liable, not the keeper. However, tracing a driver was frequently difficult, time-consuming and more costly than tracing the keeper. As parking contraventions are considered minor issues that should not clog up the judicial system, the new legislation made the keeper liable to avoid endless debate about who should be liable for the 'fine'.

Why is the penalty charge so high?

The government sets the penalty charge levels and councils must choose a level of charge when they take over enforcement from the police. The level chosen must be a deterrent to further unlawful parking, mindful of the 50% discount that must, by law, be offered for early settlement.

What evidence do you gather when you issue a penalty charge?

This depends upon the nature of the contravention. For all penalty charges we record registration mark, vehicle make and colour, place, time and date, the contravention code and description, the penalty charge number (which is created automatically), and vehicle tax details. For contraventions involving tickets and permits we record the ticket, badge or permit details. For contraventions involving time limits we record valve positions to show the vehicle has not moved. Not all of this information need be shown on the penalty charge notice.

We also record additional notes in daybooks, such as conversations with drivers, observations about the nearest signs, the condition of the lines etc. Wherever possible, we take photographic evidence of the vehicle, its parking position, and the windscreen and windows to show any tickets, badges or permits and to prove the penalty charge has been attached to the vehicle.

If we receive an appeal we can relate the circumstances to this evidence to help us reach a decision.

Can I see this evidence?

In most cases, yes. For instance, if you claim the yellow lines were too faint to see or you dispute the vehicle was on a line or that the vehicle was not yours, we will happily show you our photographic evidence immediately.

In contrast, if you dispute our claim that a valid ticket, badge or permit was not on display, we might take the view that if you saw this evidence you would then argue the ticket or badge or permit was located in a place not covered by our photographic evidence. In this case we will only release our evidence when we have a signed letter or statement making clear where you claim the ticket, badge or permit was placed.

In any event if you decide to take your case to adjudication, we are required to disclose all the evidence in putting our case to the adjudicator, and you will receive a copy of this at the appropriate time.

We will only decline to release our evidence where it has been linked to an investigation or proceedings by the police.

What about the Freedom of Information Act and the Bill of Rights Act?

Information deemed evidence that, if disclosed prematurely, might prejudice the interests of enforcement in carrying out their obligations under alternate legislation, is exempt from the Freedom of Information Act.

The Bill of Rights Act creates the fundamental right of an individual to challenge an accusation of wrongdoing and to have that challenge considered in a way that is not prejudicial to that individual. In most cases that right is exercised through a Court. The role of the adjudicator fulfills that right, so there is no conflict between the respective legislations.

What is a Notice to Owner?

This is a legal notice we send out to the registered keeper of a vehicle if a penalty charge remains unpaid or only partly paid after 28 days. It tells the keeper the amount that is outstanding and advises the keeper to pay the amount due or appeal the penalty charge formally, otherwise a surcharge will be added to the debt.

What is a Charge Certificate?

This follows the Notice to Owner and tells the registered keeper that a 50% surcharge has been added to the debt.

What is the adjudication service?

Solicitors and Barristers appointed by the Lord Chancellor are stationed around the country, consider cases put forward to them by keepers who wish to appeal the decisions made by councils regarding penalty charges. To have an appeal considered, the penalty charge must be at the full amount (£50 or £70) and a Notice to Owner must have been issued and a subsequent representation made by the keeper and rejected by the council.

The essence of the legislation is that a driver or keeper must make a choice – to pay the penalty charge at its discounted rate for a 'no contest, minimum cost' settlement, or to exercise the right to defend the allegation. The right to defend will incur time and cost so as a deterrent to frivolous appeals the penalty charge must revert to its full value. In most circumstances there is no way back. For example, a driver or keeper cannot pay at the discounted level to minimise cost then appeal to try to win it back. Nor can they pay at the discounted rate after an appeal has failed.

What is an Order for Recovery of an Unpaid Penalty Charge?

This follows the Charge Certificate and tells the registered keeper that the unpaid debt for a penalty charge has been registered with Northampton County Court Traffic

Enforcement Centre (the national clearing centre for parking contraventions). It also advises that a £5 court fee is added to the outstanding debt, and that failure to pay could result in an application for a Warrant to instruct bailiffs to collect the debt.

What is a Statement of Truth?

This is a document you complete and sign to say that you have not received a document that is fundamental to you being able to exercise your rights under parking legislation. This document has the same status as being under oath in a court, so if it is proven that you have not told the truth, upon conviction you can be fined and/or sent to prison.

It is an important protection for those whose circumstances have genuinely resulted in disadvantage, but equally precarious for those who abuse the facility. Councils can ask for a review of a Statement of Truth in the local County Court if they suspect a false declaration has been made. In extreme cases, they can ask the police to investigate whether a criminal offence has been committed.

In any event, a successful Statement of Truth does not cancel a penalty charge, it only serves to instruct the council to return the penalty charge to its £50 or £70 level to open up the rights of appeal in legislation.

What can a bailiff legally do and what can they legally take away?

A certified bailiff acting under an Order of Court (a Warrant), can take all reasonable steps to recover a debt. Normally the bailiff will send a letter to the last known debtor's address advising that a Warrant has been issued and the debt is payable to the bailiff. A second letter normally follows this a few weeks later. If these letters are ignored a bailiff will visit the premises to establish whether the debtor still resides there.

If you get a visit from a bailiff regarding a former owner or tenant or even a person who has never lived at your address, don't panic. You only need to satisfy the bailiff that the person pursued does not reside at your address. As long as you co-operate and tell the bailiff everything you know about the person the bailiff is unlikely to trouble you further.

If you are the debtor, a bailiff has a right of entry to your home or premises, but must not break in or use physical force to gain entry.

The bailiff will always try to obtain a settlement in cash (i.e. cash, credit card, sometimes a cheque), and may agree to installments if it is likely the debtor will stick to the arrangement. They will only resort to seizing goods if there is no reasonable prospect that the debt is paid in cash, or if the debtor is hostile. The bailiff will always try to secure debt against the item that brought about the debt and the item most likely to recover the debt in full (i.e. the vehicle). Bailiffs do not like taking household effects and will only do so as a last resort. There are items that bailiffs are not allowed to take, i.e. children's clothes and toys, cooking equipment, heating appliances, the tools of a trader (this does not normally extend to a trader's vehicle).

Bailiffs are answerable to the Courts for their conduct, and most subscribe to a professional code of practice that includes having a complaints procedure.

The Warrant and any subsequent bailiff letters or visits will not be recorded on credit reference files or on any deeds to your home. The only exception to this is where the bailiff has to levy a charge over your property because you, the debtor and owner, refuse to pay the debt and you have no other goods to seize. Normally this only happens when a person owes a very large amount of money).

What happens if I don't pay a penalty charge or I don't respond to the documents sent to me?

The debt will increase and then the Court will add £5 for registration of the debt. If payment is still withheld the bailiff will add about £12 for a first letter, £20 for a second, then £100 or more for each visit and for any removal of goods. Please don't let this happen to you – don't ignore the documents we send to you.

Will parking related court orders affect my credit record?

No. While anything dealt with by the Courts remains a matter of public record, penalty charge debts are not communicated to credit reference agencies, nor are they automatically attached to deeds.

It is possible that Court Orders might show up in a detailed search of a person's or a company's history, but this level of search is most unusual.