

Rushmoor Borough Council

Parking Enforcement

Policy Guidance for the Enforcement of Penalty Charge Notices

(also known as Civil Enforcement Notices)

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Please note that policies set out in this document are for guidance only.
Each case will be considered on its own merits and will take into account all of the evidence
provided and any mitigating circumstances.

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 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.

This does not mean our enforcement policies and penalty charges are open to negotiation. It does mean each enforcement action will be exercised professionally and proportionately and our 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

The council has always had powers to enforce in its own car parks, but 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 he/she was not the driver;
- the penalty charge is discounted by 50% if you pay it within 14 days, but equally is increased by 50% if you refuse to pay;
- 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.

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 including double-parking, parking over dropped kerbs and verge parking (subject to local parking orders) and parking on zig-zags and crossings etc;
- we can issue a penalty charge by post for a 'drive-away' or if we are prevented from issuing the penalty charge;
- 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 Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022 and The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 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 2016 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 – Council Plan

In July 2019, the council agreed the Your future, your place - a vision for Aldershot and Farnborough 2030. We are working with our partners to help realise the vision and the Cabinet have chosen to reflect the vision in our priorities.

The new priorities fit under the two themes of people and place.

People

Empowering and connecting communities and enabling people to live healthy and sustainable lives to fulfil their aspirations.



- Strong communities, proud of our area
- Healthy and green lifestyles
- Opportunities for everyone - quality education and skilled local workforce

Place

Ensuring our towns are family-friendly, safe, vibrant, and sustainable places - now and in the future.



- Housing for every stage of life
- Vibrant and distinctive town centres
- A thriving local economy - kind to the environment

You can find more detailed information about the progress of projects and activities in the council business plan on our Council Plan page at www.rushmoor.gov.uk/councilplan.

Section 5 – Our approach to enforcement

Our parking management activities are guided by the Council's corporate objectives.

To support these objectives, 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;
- nor will enforcement officers 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 ignore any reference to profession or social status, ethnic origin or 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 would also like you to know that 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 6 – Parking contravention observation times

The following list shows all parking contraventions and codes used by enforcement authorities. Contraventions that apply in Rushmoor are shown with the observation times in red.

Please note it normally takes several minutes (subject to the contravention) 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 above into account.

Code	Description On street = Off street = Observation time before PCN issued is in red	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. 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. 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. 0 minutes, but expiry time must be exceeded by at least 10 minutes	L	(i) £25 (ii) £50 (iii) £75
06	On street- Parked without clearly displaying a valid pay & display ticket or voucher (permit). 0 minutes (if driver not at ticket machine)	L	(i) £25 (ii) £50 (iii) £75

07	On street- Parked with payment made to extend the stay beyond initial time 0 minutes, but expiry time must be exceeded by at least 10 minutes	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. 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 or zone without clearly displaying a valid physical permit or voucher or pay and display ticket issued for that place where required, or without payment of the parking charge 0 minutes (if driver not at ticket machine)	H	(i) £35 (ii) £70 (iii) £105
14	On street- Parked in an electric vehicles' charging 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 or zone without a valid virtual permit or clearly displaying a valid physical permit where required 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 for sale of goods when prohibited Not used in Rushmoor	H	(i) £35 (ii) £70 (iii) £105

19	On street- Parked in a residents' or shared use parking place/zone displaying an invalid permit or voucher or pay and display ticket 0 minutes	L	(i) £25 (ii) £50 (iii) £75
20	On street- Parked in part of a parking place marked by a yellow line where waiting is prohibited 0 minutes for non goods vehicles Goods vehicles 10 minutes*	H	(i) £35 (ii) £70 (iii) £105
21	On street- Parked wholly or partly in a suspended bay or space 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 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 0 minutes	H	(i) £35 (ii) £70 (iii) £105
24	On street- Not parked correctly within the markings of the bay or space 0 minutes	L	(i) £25 (ii) £50 (iii) £75
25	On street- Parked in a loading place or bay during restricted hours without loading 0 minutes goods vehicles 10 minutes	H	(i) £35 (ii) £70 (iii) £105
26	On street- Parked in a special enforcement area more than 50cm from the edge of the carriageway and not within a designated parking place 0 minutes	H	(i) £35 (ii) £70 (iii) £105
27	On street- Parked in a special enforcement area adjacent to a footway, cycle track or verge lowered to meet the level of the carriageway 0 minutes	H	(i) £35 (ii) £70 (iii) £105

28	On street- Parked in a special enforcement area on part of the carriageway raised to meet the level of a footway, cycle track or verge 0 minutes	H	(i) £35 (ii) £70 (iii) £105
30	On street- Parked for longer than permitted 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 in the prescribed manner 0 minutes	H	(i) £35 (ii) £70 (iii) £105

41	On street- Stopped in a parking place designated for diplomatic vehicles Not used in Rushmoor	H	(i) £35 (ii) £70 (iii) £105
42	On street- Parked in a parking place designated for police vehicles 0 minutes	H	(i) £35 (ii) £70 (iii) £105
45	On street- Stopped on a taxi rank 0 minutes	H	(i) £35 (ii) £70 (iii) £105
46	On street- Stopped where prohibited (on a red route or clearway) 0 minutes	H	(i) £35 (ii) £70 (iii) £105
47	On street- Stopped on a restricted bus stop/stand 0 minutes	H	(i) £35 (ii) £70 (iii) £105
48	On street- Stopped in a restricted area outside a school, a hospital or a fire, police or ambulance station when prohibited 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 restriction on vehicles entering and waiting in a pedestrian zone London only at present	N/A	N/A
55	On street- A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban 0 minutes	H	(i) £35 (ii) £70 (iii) £105
56	On street- Parked in contravention of a commercial vehicle waiting restriction 0 minutes	H	(i) £35 (ii) £70 (iii) £105
57	On street- Parked in contravention of a bus 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 0 minutes	H	(i) £35 (ii) £70 (iii) £105
62	On street- Parked with one or more wheels on or over a footpath or any part of a road other than a carriageway 0 minutes	H	(i) £35 (ii) £70 (iii) £105
63	On street- Parked with engine running where prohibited 5 minutes	L	(i) £25 (ii) £50 (iii) £75

70	Off street- Parked in a loading place or bay during restricted hours without loading 0 minutes Goods vehicle 10 minutes	H	(i) £35 (ii) £70 (iii) £105
71	Parked in an electric vehicles' charging place during restricted hours without charging 0 minutes	H	(i) £35 (ii) £70 (iii) £105
73	Off street- Parked without payment of the parking charge 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 10 minutes (to gather evidence)	H	(i) £35 (ii) £70 (iii) £105
78	Off street-Parked wholly or partly in a suspended bay or space 0 minutes	H	(i) £35 (ii) £70 (iii) £105
80	Off street- Parked for longer than the maximum period permitted 0 minutes, but expiry time must have been exceeded by 10 minutes	L	(i) £25 (ii) £50 (iii) £75
81	Off street- Parked in a restricted area in an off-street car park or housing estate 0 minutes	H	(i) £35 (ii) £70 (iii) £105
82	Off street- Parked after the expiry of paid for time 0 minutes, but expiry time must have been exceeded by 10 minutes	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 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 without a valid	H	(i) £35 (ii) £70 (iii) £105

	virtual permit or clearly displaying a valid physical permit where required 0 minutes		
86	Off street- Parked beyond the bay markings (where adjacent bay is deemed unusable, or where parked completely out of bay) 0 minutes	L	(i) £25 (ii) £50 (iii) £75
87	Off street- Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed hours 0 minutes	H	(i) £35 (ii) £70 (iii) £105
89	Off street- Vehicle parked exceeds maximum weight and/or height and/or length permitted 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 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 0 minutes	H	(i) £35 (ii) £70 (iii) £105
92	Off street- Parked causing an obstruction 0 minutes	H	(i) £35 (ii) £70 (iii) £105
93	Off street- Parked in car park when closed 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 display car park without clearly displaying two (or more) valid pay and display tickets when required 0 minutes	L	(i) £25 (ii) £50 (iii) £75
95	Off street- Parked in a parking place for a purpose other than the designated purpose for the parking place 0 minutes	L	(i) £25 (ii) £50 (iii) £75

96	Off street- Parked with engine running where prohibited 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 0 minutes	H	(i) £35 (ii) £70 (iii) £105

* Or other specified time

Section 7 – 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 he/she was 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: • Goods delivered or collected were heavy or bulky and it would be unreasonable to carry them to/from a 'lawful' parking place, <u>and</u>; • Loading/unloading activity was adjacent to the premises concerned, <u>and</u>; • Loading/unloading activity was diligent (incl. checking goods and paperwork) 	<ul style="list-style-type: none"> • 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.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.2 Where the motorist claims that a parking pay & display machine was faulty	
<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • 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.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.3 Where motorist claims that the restriction is not clearly signed or marked	
<ul style="list-style-type: none"> • If signs and/or markings are missing or unclear where the contravention occurred • If signs and markings are inconsistent with each other and/or Traffic Regulation Order or legislation 	<ul style="list-style-type: none"> • If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic 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)	
<ul style="list-style-type: none"> • 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 • 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 	<ul style="list-style-type: none"> • 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)	
<ul style="list-style-type: none"> If the CEO's 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) 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If the driver provides a copy of their vehicle registration document (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. 	<ul style="list-style-type: none"> If the driver does not provide a copy of their registration document, after being given an opportunity to submit this information. If the vehicle details 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	
<ul style="list-style-type: none"> If records show the driver holds a valid authorisation for that vehicle to park. 	<ul style="list-style-type: none"> If the motorist cannot provide the authorisation to park and there is no record of the authorisation If the 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	
<ul style="list-style-type: none"> 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) 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If the Penalty Charge Notice or the Notice to Owner show the incorrect amount (i.e. the wrong penalty charge band) 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> Only when a hire agreement exists (see policy S7, below) 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If DVLA confirms the appellant was not the registered keeper at the time of the contravention 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If the registered keeper provides a valid police crime report reference number. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> In no circumstance 	<ul style="list-style-type: none"> 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. ACTION POINT - a new Notice to Owner will be served on the person named by the hire company 	<ul style="list-style-type: none"> 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.

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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> If the evidence of the Enforcement Officer is considered to be robust.

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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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 8 - 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.

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. When the notes made by the Enforcement Officer or the account of a credible independent witness support the representations made 	<ul style="list-style-type: none"> If the appellant fails to provide proof of a medical condition, or where other evidence contradicts the representations made.

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. 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. 	<ul style="list-style-type: none"> 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.

MAY ACCEPT REPRESENTATIONS	MAY REJECT 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 • Where the evidence of the Enforcement Officer confirms the circumstances 	<ul style="list-style-type: none"> • 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

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. 	<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • If the driver was not the patient • If the motorist was attending a pre-arranged appointment • If the driver could have parked legally elsewhere.

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. 	<ul style="list-style-type: none"> • 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).

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-ceremony gathering. 	<ul style="list-style-type: none"> We will deal with this sensitively, but we may reject if arrangements put in place for the funeral, were not used, or parking was inconsiderate or obstructive.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC8 The registered keeper has died	
<ul style="list-style-type: none"> Where confirmed by Death Certificate. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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/ town 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. Evidence that suggests the driver was not unavoidably detained

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 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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) 	<ul style="list-style-type: none"> 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.	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> • Within 14 days of a recent change in tariff and the driver has bought a ticket at the previous tariff. • If we did not follow statutory procedures for establishing the change in tariff. 	<ul style="list-style-type: none"> • 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 a valid resident's permit, or the new resident did not have qualifying documents to acquire a permit but still parked	
<ul style="list-style-type: none"> • Not in the above circumstances as drivers have a responsibility to adhere to the restrictions 	<ul style="list-style-type: none"> • In most circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC15 The driver displayed an expired authority to park, i.e., Blue Badge, permit, or dispensation	
<ul style="list-style-type: none"> • 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) 	<ul style="list-style-type: none"> • 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	
<ul style="list-style-type: none"> If this is the driver's first contravention and they can provide a copy of the Blue Badge and/or provide proof they were transporting a Blue Badge holder. 	<ul style="list-style-type: none"> 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.	
<ul style="list-style-type: none"> If parked without, or incorrectly set parking clock and previous concessions not been applied. 	<ul style="list-style-type: none"> If the badge holder does not display a valid Blue Badge and parking clock or overstayed the 3 hour limit.

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	
<ul style="list-style-type: none"> In exceptional circumstances such as a medical emergency (but this would also depend on the location in the car park). 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> Where the location of the parked vehicle is on private land or falls outside the scope of the Traffic Regulation Order or 'national' legislation. <p>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.</p> <p>Note: some parking restrictions do not require yellow or white lines i.e., HGV parking on any footpath/verge anywhere, parking over dropped kerbs, parking within a controlled parking zone.</p>	<ul style="list-style-type: none"> 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.

Absence of Awareness

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC20 The driver claims to have been unaware of the existence of a parking control	
<ul style="list-style-type: none"> If it can be shown that a sign is 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) 	<ul style="list-style-type: none"> 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 within 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	
<ul style="list-style-type: none"> Only where enquiries show there to be an error in the regulations, signage or operation of ticket machines. 	<ul style="list-style-type: none"> 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”	
<ul style="list-style-type: none"> Not in the above circumstances. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If it is agreed that conditions prevailed that substantively obscured the restriction. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If the appellant is able to provide proof of the emergency, i.e., a credible report of an accident or incident. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> 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) 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> Only in the event that the vehicle is being used unlawfully in the absence of and without the consent of the keeper. 	<ul style="list-style-type: none"> In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC29 The vehicle carries diplomatic plates	
<ul style="list-style-type: none"> If statutory exemption applies within the Traffic Regulation Order. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If the FPN fine has been paid to the police or Magistrates' Court. 	<ul style="list-style-type: none"> In all other circumstances

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC31 A Council officer, contractor, or Councilor, claims to have been on Council business	
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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)	
<ul style="list-style-type: none"> 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 This would suggest exceptional circumstances. 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> Only in the most exceptional circumstances, to be considered on merit 	<ul style="list-style-type: none"> 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	
<ul style="list-style-type: none"> If land search maps confirm the location is not subject of the relevant Traffic Regulation Order. If there is insufficient evidence to establish the precise location of the vehicle where there is scope for doubt 	<ul style="list-style-type: none"> In all other 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	
<ul style="list-style-type: none"> If there is reason to doubt the PCN was issued correctly, taking into account evidence provided by the Enforcement Officer and the evidence of the appellant. 	<ul style="list-style-type: none"> If the PCN was fully and correctly completed. Note: an incorrect make/colour does not in itself invalidate a PCN (the vehicle registration number is 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)	
<ul style="list-style-type: none"> Where the evidence of the Enforcement Officer is inadequate to prove the PCN was lawfully served. 	<ul style="list-style-type: none"> Where the Enforcement Officer's evidence shows the PCN was handed to the driver or a person purporting to be the driver, or the officers evidence confirms it was issued to windscreen 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)

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC37 The appellant claims a Regulation 10 PCN/NtO served by post was not received	
<ul style="list-style-type: none"> Only in exceptional circumstances such as a prolonged industrial action by Post Office staff or a loss of mail confirmed by the Post Office 	<ul style="list-style-type: none"> 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)	
<ul style="list-style-type: none"> • Where the appellant produces: <ul style="list-style-type: none"> a letter from the police or DVLA advising the vehicle has been cloned information that proves the vehicle observed could not have been the keeper's vehicle 	<ul style="list-style-type: none"> • Where the vehicle details match or the appellant fails to produce evidence to support the claim.

Section 9 – I have received a Penalty Charge. What should I do?

Please visit www.rushmoor.gov.uk/parkingfine

The driver or registered 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 will revert to its full rate of £50 (lower) or £70 (higher).

The driver or registered 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 a 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 registered 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 will 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 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 registered 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 £9 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 an enforcement agency can be appointed. The enforcement agency also charges for recovery of the debt (these charges are set by the courts). The enforcement agency has the power to seize goods and sell them to recover the debt.

Finally, a registered 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 submit 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 10 – Frequently Asked Questions

How do I pay a Penalty Charge?

Please visit our web portal at: www.rushmoor.gov.uk/parkingfine

Alternatively, please call our customer service team on 01252 398399. Please ensure you have your card details and PCN number to hand.

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

Write to us urgently via our web portal (above). In some circumstances, we may accept payment of a penalty charge in installments. When the first payment is made the charge will be frozen if the payments are maintained according to the agreement that we make with you.

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 Citizen's Advice 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 enforcement agent 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 have received demands for payment from the enforcement agency. Who do I pay?

The debt will be due to the enforcement agent, not the council. If you pay the council we will retain £84 or £114 (this is the maximum the council can recover, being the charge plus the £9 court fee), You will remain liable for any outstanding charges levied by the enforcement agency 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 in writing via our web portal at: www.rushmoor.gov.uk/parkingfine. 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 contact details, who was driving and who is the registered keeper of the vehicle (if they are different), the penalty charge number, the vehicle registration number and the date of the contravention. 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?

If you come into the council offices, someone who is not directly involved in parking 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, or your local councilor might help you submit an appeal online, but please make sure it is clear who was driving the vehicle and who owns the vehicle so we can write back to the right person.

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

You should expect to hear back from us within 7-10 days. If you have not heard from us within this timeframe you should get in touch to follow this up.

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?

Please contact us via our web portal at: www.rushmoor.gov.uk/parkingfine.

Can my Local Councilor or MP help?

Understandably, perhaps, some people feel so strongly about getting a penalty charge that they want to lobby their local Councilor or their MP or take advice from Citizen's Advice or their solicitor. We cannot interfere with or advise you on your democratic rights in this respect.

We can advise you that we will always follow the 'due processes of enforcement as set out in legislation. In this way we are able to demonstrate that everyone is treated in the same way regardless of race, religion, social status etc.

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 'Officer' was there, and I appealed to him/her - why didn't they withdraw the penalty charge notice?

Our Civil 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 registered 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 registered keeper. However, tracing a driver was frequently difficult, time-consuming and more costly than tracing the registered keeper. As parking contraventions are considered minor issues that should not clog up the judicial system, legislation changed to make the registered keeper liable to avoid endless debate about who should be liable for the penalty charge notice.

Why is the penalty charge so high?

The government sets the penalty charge amount and the lower and higher charging levels. The level of charge 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 the vehicle registration number, vehicle make and colour, the location, time and date, the contravention code and description and the penalty charge number (which is created automatically). For contraventions involving tickets and permits we record the ticket, badge or permit details. For contraventions involving time limits we record wheel valve positions to show the vehicle has not moved. Not all this information needs to be shown on the penalty charge notice that is issued.

We also record additional notes on the handheld device, 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. The lack of photographic evidence does not mean the penalty charge notice is invalid. Some situations such as a vehicle drive away means the enforcement officers are prevented from obtaining the evidence, but this does not invalidate the notice.

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

Can I see this evidence?

Yes, please visit our web portal at: www.rushmoor.gov.uk/parkingfine. You will need the penalty charge notice number and the vehicle registration number

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 registered 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 (a notice of rejection).

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 registered 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 Traffic Enforcement Centre (TEC), Northampton.

It also advises that a £9 court fee is added to the outstanding debt, and that failure to pay could result in an application for a Warrant to instruct an enforcement agent to collect the debt.

What is a Witness Statement?

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 Witness Statement 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 Witness Statement 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 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 £9 for registration of the debt. If payment is still withheld the debt will be referred to the council's certified enforcement agency.

What can an enforcement agency (bailiff) legally do and what can they legally take away?

A certified enforcement agency acting under an Order of Court (a Warrant), can take all reasonable steps to recover a debt. The enforcement agency 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 enforcement agency. If the letter is ignored an enforcement officer will visit the premises to establish whether the debtor still resides there.

If you get a visit from an enforcement officer 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 enforcement officer that the person pursued does not reside at your address. As long as you co-operate and tell them everything you know about the person the enforcement officer is unlikely to trouble you further.

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

The enforcement agent will always try to obtain a settlement such as cash or card payment 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 enforcement agent 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). Enforcement agents do not like taking household effects and will only do so as a last resort. There are items that enforcement officers 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).

Enforcement agents 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 enforcement agency 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 enforcement agent 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.

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.