



## PARKING ENFORCEMENT POLICY AND GUIDANCE

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## **1. Introduction**

The Council manages its own public car parks and undertakes parking enforcement and traffic management functions under agency agreements with Hampshire County Council who are the highway authority for the area. Under these agreements the Council, in respect of parking, enforces the on street restrictions and has the authority to amend those restrictions and introduce new ones, subject to the appropriate public consultation process under the Road Traffic Regulations Act 1984 and the Traffic Management Act 2004.

The purpose of this document is to inform the public of the Council's policies and procedures for the enforcement of the on and off street parking restrictions in force within the borough. The emphasis is on transparency and on the provision of information for road users.

The enforcement of parking restrictions is a contentious issue and to provide the public with the confidence that the restrictions are properly and fairly enforced, the Council has approved this document to provide guidance to its Civil Enforcement Officers and parking administration team. It explains our procedures for handling appeals both on the statutory grounds and the exercise of discretion in the case of mitigating circumstances.

## **2. The Legislative Background**

On the 31 March 2008 Section 6 of the Traffic Management Act 2004 was introduced to provide a nationally recognised enforcement scheme for all Local Government Authorities to comply with.

This means:

- Instead of a Fixed Penalty Notice issued by the police, which could have included points on your license, a Penalty Charge Notice (PCN) is now issued by the Local Authority for parking contraventions as a debt under Civil Law.
- The owner/keeper of the vehicle is responsible for the debt even if they were not driving the vehicle at the time of the incident.
- The 'day in court' for those who want to appeal is replaced by an independent adjudication service.
- The Penalty Charge is discounted by 50% if paid within 14 days, the charge increases by 50% if, after being served a Notice to Owner, your representations are rejected and you do not make payment within the allocated time period set out in the Notice of Rejection letter, or you do not successfully appeal to the Traffic Penalty Tribunal and do not pay the penalty at its full value.

The new powers also mean the Council can now enforce on any land or road within the District as long as a Traffic Regulation Order or Parking Order has been created (there is a statutory process for doing this). In the case of private land, the Council must also have the agreement of the land owner or landlord and the Council must show it is in the public interest to enforce this land.

- In April 2008 the new Legislation extended the scope of our enforcement:
  - Contraventions were reclassified as Higher and Lower (i.e. more serious and less serious) and the previous £60 Penalty Charge Notice for all contraventions was replaced by £70 for Higher level notices and £50 for Lower level notices. Both of these new charges are still discounted by 50% if paid within 14 days from the date the notice is served.
  - Additional contraventions were also introduced and include: double parking, parking adjacent to dropped kerbs, parking on zig zags and crossings.
  - The Legislation also allows us to issue Penalty Charge Notices by post for vehicles that are driven away before the notice is secured to the vehicle or where the Civil Enforcement Officer is prevented from serving the notice at the time of the contravention.

There are four main categories of Legislation that cover parking enforcement:

- **Primary Legislation.** Section 6 of the Traffic Management Act 2004 made provision for civil enforcement of traffic contraventions in conjunction with the Road Traffic Act 1991 and the Road Traffic Regulation Act 1984 .
- **Devolved Powers.** Statutory instrument 2003/2336 Road Traffic (Permitted Parking Area and Special Parking Area) (County of Hampshire) (Borough of Test Valley) confirms the delegation of powers to Hampshire County Council and Test Valley Borough Council by decriminalising parking enforcement within the Borough of Test Valley.
- **Enforcement.** The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 and The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulation 2007 govern the management and conduct of parking appeals in England and Wales (outside London).
- **Signs and Lines.** Statutory instrument 2016 No 362, The Traffic Signs Regulations and General Directions 2016 sets out how road signs and lines should be laid out so that parking restrictions are clear (please note that within the directions there is often scope to vary signs, also within the enforcement guidelines there is scope for allowing for 'wear and tear' and local conditions).

### **3. The Council's Approach to Enforcement**

Our parking management activities are guided by the Council's corporate objectives and policies. The Council's corporate objectives can be viewed on the Council's website at [www.testvalley.gov.uk/aboutyourcouncil/corporatedirection/corporateplan](http://www.testvalley.gov.uk/aboutyourcouncil/corporatedirection/corporateplan).

These corporate objectives are encompassed within our traffic management and parking enforcement objectives as follows;

- To manage the use of our off street and on street parking facilities to maintain access and minimise the environmental impact of traffic,
- To improve traffic conditions and reduce the risk of accidents,
- To ensure that parking controls are observed and enforced in a fair, accurate and consistent manner; by patrolling on a regular basis at any time during which restrictions apply, to enable us to respond to the public's concerns about parking subject to the resources available,
- To safeguard the needs and requirements of residents and where appropriate, to give them priority over commuter parking in residential streets close to the town centres of Andover and Romsey,
- To provide well maintained car parks that are easy for customers to use with particular regard to disabled customers,
- To safeguard the needs and requirements of businesses/organisations and visitors,
- To provide a high standard of customer care.

#### 4. Contravention Descriptions & Criteria for Establishing Enforcement Action:

The purpose of this section is to inform the public of the restrictions which apply within the borough and the process the Civil Enforcement Officers will follow.

The following schedule shows all the parking contraventions as set out by the Department for Transport which currently apply within Test Valley and the appropriate code references used by enforcement authorities. For that reason the numbering sequence is not complete (there are many contravention codes applicable to on street parking meters and some that apply in London only, these are not listed in the following tables).

Our enforcement officers cannot withdraw a Penalty Charge Notice once issued; however they will be happy to record any additional information you give them that may assist should you choose to appeal.

#### **STANDARD PCN CODES / CONTRAVENTIONS**

NB: Commercial/ goods vehicles are as defined in the Council's TROs and/ or RTRA 84 (Section 136).

PCN – Penalty Charge Notice

HHC – Hand Held Computer (issuing device)

#### **ON STREET CONTRAVENTIONS**

<b>Code</b>	<b>Description</b>	<b>Evidence/ Observation</b>	<b>Operational Considerations</b>
01	Parked in a restricted street during prescribed hours	<ul style="list-style-type: none"><li>• Double yellow lines.</li><li>• Single yellow lines within a Controlled Parking Zone or marked with a timeplate.</li><li>• Pedestrian zone markings.</li><li>• Observation to establish loading.</li><li>• Check for disabled badge &amp; clock; max 3 hours parking permitted for Blue Badges.</li></ul>	Observe for Loading for minimum 5 minutes, CEO to exercise discretion for longer observation period for commercial vehicles as appropriate. Valid Blue Badges must be displayed; 'time clock only' is insufficient.

Code	Description	Evidence/ Observation	Operational Considerations
02	Parked or loading/unloading in a restricted street where waiting and loading / unloading restrictions are in force	<ul style="list-style-type: none"> <li>• Within a Controlled Parking Zone or a Pedestrian zone and/or marked with a timeplate, the plate must prohibit loading.</li> <li>• If there are single or double yellow lines there must be kerb markings.</li> </ul>	<p>Instant PCN unless activity of picking up/ setting down passengers is observed – allow 2 minutes. In respect of infirm/ disabled passengers, officers can exercise some discretion as appropriate.</p> <p>There is no exemption for disabled badge holders.</p> <p>Loading prohibited.</p>
12	Parked in a residents' or shared use parking place or zone without clearly displaying a valid permit issued for that place	<ul style="list-style-type: none"> <li>• Bay markings and sign plates or Restricted Parking Zone. Observation to establish loading.</li> <li>• Confirmation windscreen searched before PCN issue. Note details of tickets/ permits displayed (e.g. expired badges).</li> <li>• Check expiry dates &amp; zone or road listed on displayed permits or Blue Badges.</li> <li>• Check permit has not been listed as lost or stolen &amp; report any suspected fraud or misuse of permit to admin team.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	<p>Observe for 10 minutes for vehicle loading or for motorist to provide visitor permit.</p> <p>Permits must be valid.</p> <p>Blue Badges must be valid, no time limit, no clock required.</p>
16	Parked in a permit space without displaying a valid permit	<ul style="list-style-type: none"> <li>• Bay markings and sign plates or Restricted Parking Zone. Observation to establish loading.</li> <li>• Confirmation windscreen searched before PCN issue. Note details of tickets/ permits displayed (e.g. expired badges).</li> <li>• Check expiry dates &amp; zone or road listed on displayed permits.</li> <li>• Check permit has not been listed as lost or stolen &amp; report any suspected fraud or misuse of permit to admin team.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	<p>Observe for 10 minutes for vehicle loading or for motorist to get visitor permit.</p> <p>Permits must be valid.</p> <p>Blue Badges must be valid, no time limit, no clock required.</p>

<b>Code</b>	<b>Description</b>	<b>Evidence/ Observation</b>	<b>Operational Considerations</b>
21	Parked in a suspended bay or space or part of bay or space	<ul style="list-style-type: none"> <li>• Check that the bay suspension is in force and has been correctly signed.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Instant PCN. Loading is not permitted. There is no exemption for disabled badge holders. There is no exemption for loading
22	Re-parked in the same parking place or zone within one hour or other specified time of leaving	<ul style="list-style-type: none"> <li>• Bay markings and sign plates.</li> <li>• Contravention is restricted to specific parking place.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Observe for 5 minutes for vehicle loading. Drivers can re-park after expiry of no return period.
23	Parked in a parking place or area not designated for that class of vehicle	<ul style="list-style-type: none"> <li>• Bay markings and sign plates.</li> <li>• Note vehicle class.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Observe for 5 minutes for vehicle loading. There is no exemption for disabled badge holders.
24	Not parked correctly within the markings of the bay or space	<ul style="list-style-type: none"> <li>• Bay markings and sign plates.</li> <li>• Diagram to show vehicle position.</li> <li>• Photographs from distance to show position of vehicle in relation to Road/ Parking Bay.</li> </ul>	Instant PCN. At least one wheel should be outside bay/ space. Report to police if dangerous and/ or causing obstruction. Code 01 should be used if vehicle is extending onto yellow line. There is no exemption for disabled badge holders. There is no exemption for loading.
25	Parked in a loading place during restricted hours without loading (on street loading bays)	<ul style="list-style-type: none"> <li>• Bay markings and sign plates.</li> <li>• Observation to establish loading. Verify whether place restricted to commercial vehicles or all loading.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Observe for minimum of 10 minutes for vehicle loading. CEO to exercise discretion for longer observation period for commercial vehicles as appropriate. There is no exemption for disabled badge holders.



Code	Description	Evidence/ Observation	Operational Considerations
26	Parked in a special enforcement area more than 50 cm from the edge of the carriageway and not within a designated parking place	<ul style="list-style-type: none"> <li>• Double parking.</li> <li>• Photograph to show position of vehicle in relation to the edge of the carriageway.</li> </ul>	<p>Instant PCN unless activity of picking up/ setting down passengers is observed – allow 2 minutes. In respect of infirm/ disabled passengers, officers can exercise some discretion as appropriate.</p> <p>There is no exemption for disabled badge holders.</p> <p>There is no exemption for loading.</p>
27	Parked in a special enforcement area adjacent to a dropped footway, pedestrian or vehicle access	<ul style="list-style-type: none"> <li>• Pedestrian crossings or vehicle access obstruction.</li> <li>• Photograph to show position of vehicle in relation to the dropped footway.</li> </ul>	<p>Do not enforce vehicular accesses unless covered by waiting restrictions or the access serves more than one property. Vehicle accesses serving a single property will only be enforced where the resident has confirmed they have not given consent for the vehicle to part across their access. Enforcement of single vehicle accesses will only be included in routine patrolling where the resident has confirmed in writing that they do not park across their access or give consent for others to do so.</p> <p>Instant PCN.</p> <p>There is no exemption for disabled badge holders.</p> <p>There is no exemption for loading.</p>
30	Parked for longer than permitted	<ul style="list-style-type: none"> <li>• Bay markings and sign plates.</li> <li>• Observation to establish loading.</li> <li>• Observation of valve positions, valve positions to be recorded in Hand Held Computer and Pocket book.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	<p>Observe for 10 minutes for vehicle loading.</p> <p>There is no exemption for disabled badge holders.</p>

<b>Code</b>	<b>Description</b>	<b>Evidence/ Observation</b>	<b>Operational Considerations</b>
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge in the prescribed manner	<ul style="list-style-type: none"> <li>• Bay markings and sign plates. Blue badge plate must be present.</li> <li>• Confirmation windscreen searched before PCN issue. Check for disabled badge &amp; clock. Note details of tickets/ permits displayed (e.g. expired badges).</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Instant PCN. Blue Badges must be valid; 'time clock only' is insufficient. There is no exemption for loading.
45	Parked on a taxi rank	<ul style="list-style-type: none"> <li>• Bay markings and sign plates.</li> <li>• Rank is for 'Hackney' carriages only. Private hire vehicles (e.g. 'mini cabs') may not park there.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Instant PCN There is no exemption for disabled badge holders. There is no exemption for loading.
46	Stopped where prohibited (on a red route or clearway)	<ul style="list-style-type: none"> <li>• Bay markings and sign plates. 'Clearway' sign must be present.</li> </ul> <p>This restriction is restricted to the carriageway only.</p>	Instant PCN There is no exemption for disabled badge holders. There is no exemption for loading.
47	Stopped on a restricted bus stop or stand	<ul style="list-style-type: none"> <li>• Bay markings and sign plates. There must be a 'Bus Stop Clearway' sign plus solid yellow line.</li> </ul> <p>The restriction does not apply to a 'courtesy' bus stop. This restriction is restricted to the carriageway only.</p> <ul style="list-style-type: none"> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	Instant PCN There is no exemption for disabled badge holders. There is no exemption for picking up / dropping off passengers from other vehicles. There is no exemption for loading.
48	Stopped in a restricted area outside a school when prohibited	<ul style="list-style-type: none"> <li>• Road markings &amp; signs. There must be a 'School Clearway' sign and yellow 'Zig Zag' lines.</li> </ul> <p>Restriction may only apply in school term times.</p>	Instant PCN There is no exemption for disabled badge holders. There is no exemption for picking up / dropping off passengers.

48 Cont		<p>If a yellow line waiting ban runs behind the school keep clear marking, the stopping ban enforced by contravention code 48 always takes precedence during any overlap in operational hours of both restrictions.</p> <ul style="list-style-type: none"> <li>• Photo to show position of vehicle in relation to signing</li> </ul>	There is no exemption for loading.
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Code	Description	Evidence/ Observation	Operational Considerations
49	Parked wholly or partly on a cycle track or lane	<ul style="list-style-type: none"> <li>• Mandatory Cycle Lanes only - separated from the rest of the carriageway by a solid white line or kerb.</li> <li>• Photo to show position of vehicle in relation to signing.</li> </ul>	<p>Instant PCN            Advisory Cycle Lanes are separated from the rest of the carriageway by a broken white line. Footway Cycle Tracks are advisory only.            There is no exemption for disabled badge holders.            There is no exemption for picking up / dropping off passengers.            There is no exemption for loading.</p>
61	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	<ul style="list-style-type: none"> <li>• Evidence of vehicle weight (unloaded weight over 7.5 tonnes).</li> </ul>	<p>Nationwide Primary Legislation – TRO not required. Loading permitted if no alternative. If there is an alternative and driver refuses to move when pointed out, loading exemption does not apply &amp; PCN should be issued. CEO to exercise discretion for observation period if appropriate.</p>
99	Stopped on a pedestrian crossing or crossing area marked by zigzags	<ul style="list-style-type: none"> <li>• Road markings.</li> <li>• Diagram to show position of vehicle.</li> <li>• Photo to show position of vehicle in relation to signing.</li> <li>• Observation &amp; notes to confirm vehicle not compelled to stop (e.g. in a line of stationary traffic).</li> </ul>	<p>Instant PCN – No upright signs are required.            There is no exemption for disabled badge holders.            There is no exemption for picking up / dropping off passengers.            There is no exemption for loading.</p>

## OFF STREET CONTRAVENTIONS

Code	Description	Evidence/ Observation	Operational Considerations
80	Parked for longer than the maximum period permitted (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Observation of valve positions.</li> <li>• Record details of all P&amp;D tickets on display, expired and current &amp; all relevant Ringgo sessions.</li> </ul>	Allow 10 minutes before issuing PCN.
81	Parked in a restricted area in a car park (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Make a diagram.</li> <li>• Photos from distance to show area of restriction.</li> </ul>	<p>Instant PCN</p> <p>There is no exemption for disabled badge holders.</p> <p>There is no exemption for picking up / dropping off passengers.</p> <p>There is no exemption for loading.</p>
82	Parked after the expiry of time paid for (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Record details of all P&amp;D tickets on display, expired and current &amp; all relevant Ringgo sessions.</li> </ul>	<p>Allow 10 minutes from time of expiry before issuing PCN.</p> <p>Drivers can re-park after expiry of no return period, if so, grace period would reapply.</p>
83	Parked in a car park without clearly displaying a valid pay & display ticket (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Confirmation of searching windscreen &amp; vehicle interior &amp; Ringgo checked, before PCN issue.</li> <li>• Record details of tickets/ permits/ Blue Badges displayed, particularly if face down or partially covered.</li> </ul>	<p>Allow 10 minutes before issuing PCN.</p> <p>There is no exemption for loading.</p>
84	Parked with additional payment made to extend the stay beyond time first purchased (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Observation/Evidence that vehicle returned before 'no return' period expired.</li> <li>• Observe valve positions. Record details of all P&amp;D tickets on display, expired and current &amp; all relevant Ringgo sessions.</li> </ul>	<p>Allow 10 minutes from time of expiry of initial P&amp;D ticket before issuing PCN.</p> <p>Drivers can re-park after expiry of no return period, if so, grace period would reapply.</p>

<b>Code</b>	<b>Description</b>	<b>Evidence/ Observation</b>	<b>Operational Considerations</b>
85	Parked in a permit bay without clearly displaying a valid permit (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Note details of permits/ tickets, if any displayed.</li> <li>• Photo to show position of vehicle in relation to signing.</li> <li>• Check permit has not been listed as lost or stolen &amp; report any suspected fraud or misuse of permit to admin team.</li> </ul>	<p>Allow 10 minutes for motorist to get visitor permit / shared Season ticket before issuing PCN.</p> <p>There is no exemption for disabled badge holders.</p> <p>There is no exemption for picking up / dropping off passengers.</p> <p>There is no exemption for loading.</p>
86	Parked beyond the bay markings (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Diagram to show vehicle position.</li> <li>• Photographs to show position of vehicle in relation to parking bay/ aisle.</li> </ul>	<p>Instant PCN</p> <p>At least one wheel should be outside bay/ space.</p>
87	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge in the prescribed manner (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Confirmation windscreen searched before PCN issue. Note details of tickets/ permits displayed (e.g. expired/ faded / partially obscured badges).</li> </ul>	<p>Instant PCN</p> <p>There is no exemption for loading.</p>
89	Vehicle parked exceeds maximum weight or height or length permitted in the area (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Evidence of height &amp;/or weight.</li> </ul>	<p>Instant PCN</p> <p>There is no exemption for disabled badge holders.</p> <p>There is no exemption for picking up / dropping off passengers.</p> <p>There is no exemption for loading.</p>

Code	Description	Evidence/ Observation	Operational Considerations
90	Re-parked within one hour or other specified time of leaving a bay or space in a car park (off street car parks)	<ul style="list-style-type: none"> <li>Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>Evidence that vehicle did not move for 'no return' period. Observe valve positions.</li> </ul>	Instant PCN
91	Parked in a car park or area not designated for that class of vehicle (off street car parks)	<ul style="list-style-type: none"> <li>Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>Evidence that vehicle is not in permitted class.</li> </ul>	Instant PCN There is no exemption for disabled badge holders. There is no exemption for picking up / dropping off passengers. There is no exemption for loading.
92	Parked causing an obstruction (off street car parks)  The term 'obstruction' is not legally defined and is capable of subjective opinion. The CEO must clearly indicate therefore the effect that the parking of the vehicle had (or could have had) on other users of the car park, including those on foot.	<ul style="list-style-type: none"> <li>Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>Evidence of obstruction, full diagram made.</li> <li>Photographs to show position of vehicle in relation to parking bay/ aisle.</li> </ul> <p>This contravention may be covered within 86 above.</p>	Instant PCN There is no exemption for disabled badge holders. There is no exemption for picking up / dropping off passengers. There is no exemption for loading.
93	Parked in car park when closed (off street car parks)	<ul style="list-style-type: none"> <li>Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>Prohibition may only apply on specific or special days/ dates (e.g. Market days).</li> <li>If a temporary closure - Check that the closure is in force and has been correctly signed.</li> <li>Photo to show position of vehicle in relation to signing.</li> </ul>	Instant PCN. There is no exemption for disabled badge holders. There is no exemption for picking up / dropping off passengers. There is no exemption for loading.

Code	Description	Evidence/ Observation	Operational Considerations
94	Parked with a trailer in a pay & display car park without clearly displaying two valid pay and display tickets when required (off street car parks)	<ul style="list-style-type: none"> <li>• Car park lining and signing as regards tariffs &amp; contraventions etc.</li> <li>• Confirmation windscreen searched before PCN issued. Note details of any tickets displayed.</li> <li>• Photos of vehicle &amp; trailer from distance.</li> </ul>	Instant PCN. There is no exemption for loading.

## **5. Penalty Charge Recovery Process and How to Challenge or Appeal the Penalty Charge Notice (PCN)**

This section of the guidance sets out the stages of the appeal process:

1. It is very important that you either pay the PCN as early as possible to avoid additional charges or that you write to the Council or adjudication service as early as possible to ensure that your written Appeal or Representation is made within the appropriate time scales and you are not out of time.
2. If you do nothing or do not act within the appropriate time, you may lose your right to pay at the discounted rate or lose your right to appeal, ultimately leading to you having to pay considerably more.
3. Our enforcement officers cannot withdraw a PCN once issued; however they will be happy to record any additional information you give them that may assist you should you choose to appeal.
4. The driver or keeper has 14 days to pay the PCN 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).
5. The driver or keeper can appeal against the PCN but must do so in writing. If the appeal is received within the first 14 days from the date the PCN was served and if the appeal is rejected, then the Council will respond in writing and offer the discount period again from the date of the rejection notice for a further 14 days to pay the charge at the discounted rate. If the appeal is successful the PCN will be cancelled.
6. If the appeal is received outside the 14 day discount period the Council will still consider the appeal but if it is rejected the PCN will normally stay at the full amount of £50 (lower level contraventions) or £70 (higher level) unless the Council accept your explanation of mitigating circumstances for the delay.
7. If no payment is made or insufficient payment is received or no challenge is made within 28 days, the Council then contact the Driver Vehicle Licensing Authority (DVLA) who will provide us with details of the Registered Keeper and then the Council send out a Notice to Owner to the Registered Keeper. (Under the Legislation it is the Registered Keeper of the vehicle who is responsible for any PCN's issued to that vehicle irrespective of who was driving, unless this is as part of a vehicle hire agreement).
8. The Notice to Owner informs the keeper that they are expected to pay the PCN or make a formal representation against the PCN within 28 days from the date the Notice to Owner is served, (the rules relating to the service of a PCN by post are included within the Notice to Owner), otherwise if payment or an appeal is not received within this time a Charge Certificate will be served incurring a 50% surcharge.
9. If an appeal is received the Council will consider it and again if accepted the PCN is cancelled. If it is rejected the Council will issue a rejection notice and ask for payment of the PCN. The discount rate will have expired prior to the Notice to Owner being issued.



10. In our rejection notice we will include a form advising you of the Traffic Penalty Tribunals independent adjudication process and the grounds that you may make a representation on to the Tribunal. There is no fee for appealing to the Council or the Tribunal.
11. 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.
12. If the adjudicator accepts the appeal, the case will be closed and the PCN cancelled. If an appeal is dismissed the Penalty Charge remains payable at the full amount of £50 (lower level contraventions) or £70 (higher level) less any part payments already made.
13. If the 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 charges have increased by 50% to either £75 or £105.
14. If this is not paid within 21 days the Council will apply to the Court to register the debt. The Court will charge £7 for this and this fee is added to the amount above. An Order for recovery of unpaid Penalty Charge will be sent to the keeper advising them of the process and the date by which they may submit a witness statement to the Court.
15. If the amount shown on the Order for recovery is not paid within the time specified the Council will ask the court to issue a Warrant for the outstanding debt, which means an Enforcement Agent (formerly known as a bailiff) can be appointed. The Enforcement Agent also adds charges for recovery of the debt (these charges are set by Legislation and shown in the table below). The Enforcement Agent has the power to seize goods and sell them to recover the debt including clamping and removing the vehicle.

In accordance with the Tribunals, Courts and Enforcement Act 2007 the following charges are effective from the 6th April 2014:

Compliance Stage (Administration Fee)	£75
Enforcement Stage	£235
Removal Stage	£110

16. If the keeper submits a witness statement to the Courts within the specified timeframe and this statement is accepted, the Court will instruct the Council to remove the surcharge and reissue the Notice to Owner, see paragraph 6 above, (the PCN will not be cancelled). The Council can ask the Court to reject the declaration if it can show a false statement has been made.

## **6. Policy for Deciding Appeals Against a Penalty Charge Notice including The Statutory Representations Against a Notice to Owner & Mitigation**

Our staff are fully trained in the Legislation that applies to enforcement, including the interpretation and use of Traffic Regulation Orders. All appeals are acknowledged on receipt and in normal circumstances the Council would expect to accept or reject your appeal within four weeks, allowing for a full investigation of the circumstances.

It is important to stress that every appeal to the Council will be considered carefully and in detail. If the Council do not have sufficient information to decide your appeal, the Council will give you a reasonable opportunity to provide the additional evidence we need.

The Traffic Management Act 2004 sets out eight statutory grounds on which an appeal can be made. There may be **other grounds** involving mitigating circumstances which the appellant may put forward.

The Councils policy for considering appeals and representations is outlined in the following tables; the statutory grounds are numbered S1 to S8 and the other grounds or mitigating circumstances are covered under S9:

**Statutory ground 1. The alleged contravention did not occur:**

<b>S1.1 Where the motorist claims he/she was loading/unloading</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<p>On a waiting prohibition or in a controlled bay: If evidence is available or provided to show:</p> <ul style="list-style-type: none"> <li>• Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from permitted on street parking place. Loading/unloading activity was adjacent to the premises concerned.</li> <li>• Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity).</li> <li>• If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc.</li> <li>• In car parks if driver was depositing materials in recycling bins and was parked adjacent to those bins for no longer than necessary to unload.</li> </ul>	<ul style="list-style-type: none"> <li>• On restrictions banning loading and unloading or where loading is specified for a particular class of vehicle (i.e. Goods vehicles loading only)</li> <li>• On school zig-zag markings</li> <li>• On bus stop clearways</li> <li>• On Taxi ranks</li> <li>• On Police bays</li> <li>• Where loading is prohibited</li> <li>• In car parks: if a valid pay &amp; display ticket was not purchased first</li> </ul>

**S1.2 Where the motorist claims that a parking pay & display machine was faulty****MAY ACCEPT REPRESENTATIONS**

- If service records confirm a fault or that the machine had been taken out of service at the time of the contravention or if there is reasonable doubt because evidence is not available to confirm that a machine was working at the time (check ticket machine transaction report) and there was not another ticket machine nearby which was operating correctly.
- In view of the number of counterfeit coins in circulation, if driver claims that the machine rejected their coins and it is their first contravention of this kind and they tried all available ticket machines within reason.

**MAY REJECT REPRESENTATIONS**

- 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 evidence to show that other visitors had been able to purchase tickets during the relevant period.

**S1.3 Where the motorist claims that the restriction is not clearly signed or marked****MAY ACCEPT REPRESENTATIONS**

- If signs and/or markings are missing or if signs and markings are inconsistent with each other and/or Traffic Order or Legislation

**MAY REJECT REPRESENTATIONS**

- If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.
- That while the signs and/or markings were worn their meaning was still legible.

**S1.4 Where the motorist was carrying out building works or works of a statutory nature****MAY ACCEPT REPRESENTATIONS**

- If evidence confirms that loading/unloading was taking place (see policy S1.1, above).
- If a valid waiver to park at the location in question had been issued and was on display in the vehicle.
- If works are of a statutory nature or are exempted from restrictions by a Traffic Order or Legislation.
- If it can be proven that the works were an emergency and no alternative location was suitable.

**MAY REJECT REPRESENTATIONS**

- If the evidence presented does not support the claim or is inconclusive.
- If suitable permitted parking available nearby.

<b>S1.5 Where the motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver, or received by post)</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If the CEO's pocket book and/or computer notes confirm that the vehicle drove away before a PCN could be served, i.e. PCN not handed to the driver or fixed to the vehicle, this excludes PCN's issued by post.</li> <li>• If the keeper can prove that the Notice was not received by post (incorrect postal address).</li> </ul>	<ul style="list-style-type: none"> <li>• If the CEO's notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle.</li> <li>• If the postal address is correct and the Notice was served by post within the statutory time period.</li> </ul> <p>However if it is claimed that there was no PCN on the vehicle and it is the first appeal of this kind, a copy PCN should be sent with the rejection letter and the discount period reset for a further 14 days as a gesture of goodwill.</p>

<b>S1.6 Where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on which the PCN which was issued</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If the appellant provides evidence to support their claim and the CEOs photographs or notes support their claim, (e.g. registration document shows vehicle to be a Volvo, photo shows vehicle was a Ford indicating number plate may have been cloned).</li> </ul> <p>Report suspected fraud to Police.</p>	<ul style="list-style-type: none"> <li>• If the evidence presented does not support the claim or is inconclusive</li> </ul>

<b>S1.7 Where the motorist claims that a valid authorisation to park had been issued e.g. Permit or Waiver.</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If records show that there was a valid Permit or Waiver to park on display.</li> <li>• Where the motorist had a valid Permit which was not clearly displayed and/or where the motorist is a new resident and misunderstood the permit scheme rules or had been given a visitor permit to use and misunderstood which location the permit was valid for use in and it is their first contravention of this kind.</li> </ul>	<ul style="list-style-type: none"> <li>• If motorist cannot provide a copy of the valid Permit or Waiver.</li> <li>• If the motorist did not park in accordance with the Permit or Waiver. (E.g. If the location of the contravention is unrelated to the location listed on the Permit or Waiver).</li> <li>• If the motorist has made a similar representation before and had a previous PCN cancelled.</li> </ul>

<b>S1.8 Where the motorist claims that a pay &amp; display ticket was purchased and displayed</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If a Pay &amp; Display parking ticket is produced that was valid at the time the PCN was issued and the CEO's notes or photos confirm that there was a face down ticket or a partially concealed ticket on display and it is their first contravention of this kind.</li> </ul>	<ul style="list-style-type: none"> <li>• If the motorist is unable to produce a valid pay &amp; display ticket.</li> <li>• If the CEO's notes or photos do not confirm that there was a face down ticket or a partially concealed ticket on display.</li> <li>• If the motorist has made a similar representation before and had a previous PCN cancelled.</li> <li>• If the CEO observed and recorded that the motorist obtained their ticket from another motorist in the car park.</li> <li>• If the permit was issued to an organization for shared use and a previous PCN connected with the organization's permits has been cancelled.</li> </ul>

<b>S1.9 Where the motorist claims that a Pay by Phone parking period was purchased</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If the Pay by Phone records show that the PCN was issued after the motorist made the transaction.</li> <li>• If there was an error in registering or selecting the vehicle VRN or parking location and it is the first contravention of this kind.</li> <li>• If there is evidence of a communication breakdown with either the customer's mobile phone network or the system provider.</li> </ul>	<ul style="list-style-type: none"> <li>• If the motorist has made a similar representation for a VRN or location error and had a previous PCN cancelled.</li> </ul>

**Statutory ground 2. The penalty exceeded the relevant amount**

<b>S2.1 Where the motorist claims the penalty exceeded the relevant amount</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If the PCN and/or Notice to Owner showed the incorrect amount of Penalty Charge, i.e. the wrong Penalty Charge band.</li> <li>• System error – check document merge codes</li> </ul>	<ul style="list-style-type: none"> <li>• If the PCN or Notice to Owner showed the correct amount of Penalty Charge.</li> </ul>

**Statutory ground 3. The Traffic Order which is alleged to have been contravened in relation to the vehicle concerned was invalid**

<b>S3.1 Where the motorist claims the Traffic Order was invalid</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was not made correctly.</li> </ul>	<ul style="list-style-type: none"> <li>If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was constructed and made correctly</li> </ul> <p>Supply appellant with evidence of correct procedure etc.</p>

**Statutory ground 4. The Owner/Keeper was not the owner/keeper of the vehicle at the time of the contravention:**

<b>S4.1 Where the current registered keeper claims that the vehicle was disposed of before the contravention occurred</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the current Registered Keeper is able to provide proof that the vehicle was disposed of before the contravention, i.e. a bill of sale, registration documents, insurance documents or a letter from the DVLA</li> <li>If the current Registered Keeper is able to provide the full name and address of the person to whom they disposed of the vehicle. ACTION - send a new Notice to Owner to the person named by the current Registered Keeper.</li> </ul>	<ul style="list-style-type: none"> <li>If the current Registered Keeper is unable to prove that they disposed of the vehicle before the contravention nor provide the name and address of the person to whom they disposed of the vehicle.</li> <li>If the person named by the current Registered Keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is not considered to be bona fide.</li> </ul>

<b>S4.2 Where the current registered keeper claims that the vehicle was purchased after the contravention occurred</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the current Registered Keeper is able to provide proof that the vehicle was purchased after the contravention, i.e. an invoice, registration documents, insurance documents or a letter from the DVLA; and/or if the current Registered Keeper is able to provide the full name and address of the person from whom they purchased the vehicle.</li> </ul>	<ul style="list-style-type: none"> <li>If the current Registered Keeper is unable to prove that they purchased the vehicle after the contravention nor provide the name and address of the person from whom they bought the vehicle.</li> <li>If the person named by the current Registered Keeper as the person to whom they purchased the vehicle from, either does not exist, cannot be traced or is not considered to be bona fide.</li> </ul>

**S4.3 Where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention**

**MAY ACCEPT REPRESENTATIONS**

- Only when a hire agreement exists (see statutory ground 6, below).

**MAY REJECT REPRESENTATIONS**

- In all other circumstances because the Registered Keeper is always liable, including where the vehicle was left in the care of a garage or was driven by an employee of the Registered Keeper.

**S4.4 Where the motorist claims that they never owned the vehicle**

**MAY ACCEPT REPRESENTATIONS**

- If the DVLA confirm that the motorist was not the Registered Keeper at the time of the contravention

**MAY REJECT REPRESENTATIONS**

- If the DVLA confirms that the motorist was the Registered Keeper of the vehicle at the time of the contravention.
- If the previous Registered Keeper provides proof that the motorist bought the vehicle before the contravention,
- Or the subsequent Registered Keeper provides proof that the motorist sold the vehicle after the contravention.
- If the motorist is proven to have hired the vehicle for the day on which the contravention occurred and signed an agreement to take responsibility for PCN's incurred, subject to the time of hire (see Statutory ground 6, below).

**Statutory ground 5. The vehicle had been taken without owner's consent**

**S5.1 Where the current registered keeper claims that the vehicle had been stolen**

**MAY ACCEPT REPRESENTATIONS**

- If the Registered Keeper provides a valid police crime report reference number.

**MAY REJECT REPRESENTATIONS**

- If the current Registered Keeper is unable to provide any proof of theft.
- If the police crime report reference number provided by the current Registered Keeper does not exist or it does not match the theft or date of the theft alleged.

**S5.2 Where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)**

**MAY ACCEPT REPRESENTATIONS**

- In no circumstance

**MAY REJECT REPRESENTATIONS**

- In all circumstances because the Registered Keeper is always liable, except when a hire agreement exists.

**Statutory ground 6. The owner is a hire company and has supplied the name of the hirer**

<b>S6.1 Where the owner is a hire company and have supplied the name of the hirer</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the hire company is able to provide proof that the vehicle was hired at the time of the contravention, i.e. a signed agreement, and the hire company are able to provide the full name and address of the person to whom they hired the vehicle. ACTION – send a new Notice to Owner to the person named by the hire company.</li> </ul>	<ul style="list-style-type: none"> <li>If the hire company is unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom they hired the vehicle.</li> <li>If the person named by the hire company as the person to whom they hired the vehicle, without proof, cannot be traced or denies responsibility for the contravention.</li> <li>If the vehicle was being driven as a courtesy car without an agreement signed to accept responsibility for PCN's issued.</li> </ul>

**Statutory ground 7. There has been a procedural impropriety on the part of the enforcement authority.**

<b>S7.1 That there has been a procedural impropriety on the part of the enforcement authority.</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the enforcement authority has failed to observe any requirement imposed on it by the 2004 Act, by the General Regulations or by the Regulations in relation to the imposition or recovery of a Penalty Charge or other sum.</li> </ul>	<ul style="list-style-type: none"> <li>Where there is no evidence that the enforcement authority has acted outside of the Legislation and or regulations.</li> </ul>

**Statutory ground 8. The Notice should not have been served because the penalty charge had already been paid in full or at the discounted rate set in accordance with Schedule 9 to the Traffic Management Act 2004 and within the time specified in paragraph 1(h) of the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007**

<b>S8.1 The Notice should not have been served because the penalty charge had already been paid in full or at the discounted rate</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If evidence is supplied to support payment from the Council's online payment system or paye.net or cashiers receipt from Council offices showing date and time of payment.</li> </ul>	<ul style="list-style-type: none"> <li>If discounted payment was not received by the last day of the period of 14 days beginning with the date on which the PCN was served, or if payment was received 24 after the Notice was served.</li> </ul>



## Statutory ground 9. Any other information that the motorist / vehicle owner want the Council to take into consideration

### S9.1 Any other information that the motorist / vehicle owner want the Council to take into consideration

The decision whether or not a PCN should be cancelled, will only be taken following very careful consideration taking into account all of the evidence available.

## Our Policy for Considering Mitigating Circumstances

The following section provides advice on the scope for mitigating circumstances to be taken into account in determining appeals against the issue of a PCN

The Council will look at each case sympathetically and in accordance with this guidance.

The schedules below are intended as a guide and are not an exhaustive list. If you are unable to find similar circumstances to those, that you believe would apply to your particular case then please write in with as much supporting evidence as you are able, for us to consider.

### S9.1 Where the motorist claims to have become unwell while driving or whilst parked

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> <li>If evidence is provided of a medical condition, temporary or permanent, that is consistent with the conditions described.</li> <li>Or when the notes made by the CEO support the motorist's representations (e.g. driver returned &amp; was using crutches or heavily pregnant).</li> </ul>	<ul style="list-style-type: none"> <li>If evidence proof of a medical condition, temporary or permanent, consistent with the conditions described is not provided.</li> <li>Or where other evidence contradicts the motorist's claims (e.g. the officer's notes say the driver returned carrying bags of shopping &amp; no sign of incapacity).</li> </ul>

### S9.2 Where the motorist stopped to use the toilet

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> <li>Provision of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation.</li> <li>If child passenger (not baby in nappies), under 3 years of age needed to use the toilet and it is their first appeal of this kind.</li> </ul>	<ul style="list-style-type: none"> <li>Where other evidence contradicts the motorists claims (e.g. the officers notes say the driver returned carrying bags of shopping &amp; or no sign of child).</li> <li>If the motorist has made a similar representation before and had a previous PCN cancelled (unless this is due to a medical condition).</li> </ul>

### S9.3 Where the motorist stopped to collect (prescribed) medication from a chemist

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> <li>Only in exceptional circumstances and the use of a permitted parking place would have caused an unacceptable delay.</li> </ul>	<ul style="list-style-type: none"> <li>In any lesser circumstances.</li> </ul>

<b>S9.4 Where the motorist was a patient visiting a doctor's surgery</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If a letter from a doctor is provided to confirm that the visit was urgent and that they were unable to walk from the nearest legal parking space.</li> </ul>	<ul style="list-style-type: none"> <li>If the motorist was not the patient but only driving the vehicle carrying the patient</li> <li>If the motorist was attending a pre-arranged, non-urgent appointment.</li> <li>If the motorist could reasonably have been expected to parked legally elsewhere.</li> </ul>

<b>S9.5 Where the motorist claims a recent bereavement</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If no evidence exists to the contrary, taking into account the sensitivity of this issue and it is their first appeal of this kind.</li> </ul>	<ul style="list-style-type: none"> <li>Only if there is a significant reason to doubt the sincerity of representations, e.g. previous appeal on similar grounds &amp; no evidence supplied.</li> </ul>

<b>S9.6 Where the motorist claims to have been collecting or depositing monies at a bank</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If evidence is available or provided to show: <ol style="list-style-type: none"> <li>The quantity of Money being deposited was heavy, e.g. large quantity of coins and it would be unreasonable to expect them to be carried from a permitted parking place.</li> <li>Loading/unloading activity was adjacent to the premises concerned.</li> <li>Loading/unloading activity was timely (includes banking &amp; receipting, but not delayed by unrelated activity).</li> </ol> </li> </ul>	<ul style="list-style-type: none"> <li>In all other circumstances</li> </ul>

<b>S9.7 Where motorist stopped to answer mobile phone</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>In no circumstances</li> </ul>	<ul style="list-style-type: none"> <li>On all occasions</li> </ul>

<b>S9.8 Where the motorist was delayed in returning to their vehicle and parking time purchased had expired, or where motorist was delayed in returning to their vehicle parked in a limited waiting parking place</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• Submission of evidence that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional.</li> <li>• If motorist's vehicle had broken down, subject to concurrence with policy S9.9 below.</li> <li>• If the motorist was unable to drive, since parking the vehicle.</li> <li>• The motorist had been detained by the Police see Statutory ground S9.12.</li> </ul>	<ul style="list-style-type: none"> <li>• If the delay was entirely avoidable, i.e. queuing in a shop.</li> <li>• If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or attending an appointment.</li> <li>• A grace period of 10 minutes is given before PCNs are issued in these circumstances.</li> </ul>

<b>S9.9 Where the motorist claims that their vehicle had broken down</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If evidence of a breakdown is provided, i.e. proof of vehicle recovery or a bill of sale for repair or parts.</li> </ul>	<ul style="list-style-type: none"> <li>• If the motorist is unable to provide evidence that their vehicle had broken down.</li> <li>• If vehicle was not removed within a reasonable time.</li> <li>• If the CEO's notes contradict the circumstances described e.g. car bonnet still hot or notes of contradictory conversation with driver.</li> </ul>

<b>S9.10 Where the motorist claims that they were attending an emergency or another vehicle that had broken down</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<p>If the motorist is able to provide reasonable proof of the emergency, i.e. a report of an accident or incident, or evidence that they were attending to another vehicle that had broken down.</p>	<ul style="list-style-type: none"> <li>• If the motorist is unable to provide evidence that they were attending an emergency or another vehicle which had broken down</li> <li>• If the CEO's notes contradict the circumstances described e.g. no evidence of another vehicle or notes of contradictory conversation with driver</li> </ul>

<b>S9.11 Where the motorist states they were visiting a friend or relative in urgent circumstances</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If evidence provided that the parking contravention could not be avoided due to the exceptional nature of the incident.</li> </ul>	<ul style="list-style-type: none"> <li>• If the CEO's pocket book notes contradict the submission.</li> <li>• If the motorist was parked in an area which does not correspond with claims made in representations.</li> <li>• If the motorist could reasonably have been expected to parked legally elsewhere.</li> <li>• If the motorist has made a similar representation before and had a previous PCN cancelled.</li> </ul>

<b>S9.12 Where the motorist states they were in police custody when PCN issued</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If evidence has been provided that the police had instructed the motorist to leave the vehicle e.g. it had been identified as uninsured or the driver was unlicensed.</li> <li>• If the time of arrest (proof required from the Police) indicated that the motorist had parked legally and was then unable to move vehicle before the restriction came into force.</li> </ul>	<ul style="list-style-type: none"> <li>• If no proof provided that vehicle may have been legally parked before arrest.</li> <li>• If the motorist had been detained and charged by the police since parking due to excess alcohol in the body.</li> </ul>

<b>S9.13 Where the motorist made payment for subsequent time to park in the same place or returned to the same place within a specified and prohibited time period</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• In no circumstances</li> </ul>	<ul style="list-style-type: none"> <li>• If the motorist overstays initial period of time purchased or returns within a period of 'No return'.</li> </ul>

<b>S9.14 Where the motorist left the vehicle parked without a valid ticket on display to obtain change.</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
If the motorist has provided a ticket that was purchased within the observation period of 10 minutes.	<ul style="list-style-type: none"> <li>If the parking attendant's notes indicate that the motorist returned to their vehicle, having completed their purpose for parking, while the PCN was being issued, i.e. carrying shopping and without a pay and display ticket.</li> <li>If the motorist provides a ticket purchased after the 10 minute observation period.</li> </ul> <p>If the CEO observed and recorded that the motorist obtained their ticket from another motorist in the car park.</p>

<b>S9.15 Where the motorist claims to have been unaware of charges or restrictions in the car park.</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
If information on restrictions on tariff boards are incorrect or missing	In all other circumstances

<b>S9.16 where the motorist claims to have put money into the wrong ticket machine</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
If it is agreed that the position of the ticket machine used by the motorist in relation to their parked vehicle could have caused confusion.	If the motorist has made a similar representation before and had a previous PCN cancelled.
Only in Broadwater Road car park if Aldi ticket is provided / was displayed	

<b>S9.17 where the motorist claims to have paid on Ringgo for the wrong car park or vehicle registration</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
If evidence of payment to park on Ringgo system concurs with details of appeal.	If the motorist has made a similar representation before and had a previous PCN cancelled.

<b>S9.18 where the motorist claims to have been unaware of recent changes in tariff</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
If statutory notices were not erected in accordance with procedural regulations. see statutory ground S7	If statutory notices were erected in accordance with procedural regulations and tariff board(s) were correct
If revised tariff is not on tariff board(s)	

<b>S9.19 where the motorist assumed that they were entitled to “a period of grace” before the PCN was issued</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
In no circumstances.	In all circumstances.

<b>S9.20 where motorist states they were unaware of enforcement on Bank/Public holidays, Sundays or evenings</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
In no circumstances	In all circumstances.

<b>S9.21 where the motorist had parked with one or more wheels outside of a marked bay in a car park or on street</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>Where the bay markings are unclear i.e. faded or snow or leaves were covering the bay markings.</li> <li>Where a Blue Badge Holder (passenger or driver) requires extra room to access the vehicle and it is the first appeal of this kind.</li> </ul>	<ul style="list-style-type: none"> <li>When supporting evidence (photographs &amp; CEO notes) show bay markings were distinct.</li> <li>If the motorist has made a similar representation before and had a previous PCN cancelled.</li> </ul>

<b>S9.22 Where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If it can be established that such conditions prevailed at the time of the contravention and that the signs and markings were obscured and there was no alternative indication of the restriction.</li> </ul>	<ul style="list-style-type: none"> <li>When supporting evidence (photographs &amp; CEO notes) show restriction signs &amp; markings were distinct and /or the location of the contravention was unlikely to be subject to the natural conditions described by the motorist, i.e. it was under cover.</li> </ul>

<b>S9.23 Where the motorist claims to have been unaware of the existence of a controlled parking zone</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If it can be established that the signing and marking of the Controlled Parking Zone are incorrect.</li> </ul> <p>See statutory ground S7.</p>	<ul style="list-style-type: none"> <li>If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.</li> </ul>

<b>S9.24 Where the motorist claims to have been unaware of a temporary parking restriction or special event restriction</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the motorist claims that there was no indication of the restriction, and the CEO's notes/photographs do not confirm that appropriate signing was in place. See statutory ground S7.</li> </ul>	<ul style="list-style-type: none"> <li>If the CEO's notes/photographs confirm that the vehicle was parked in an area restricted by the Temporary Order or Notice, and that appropriate signing was in place and clearly visible.</li> </ul>

<b>S9.25 Where the motorist is a Blue Badge holder/transporting a Blue Badge holder and they did not have their Blue Badge and/or clock on display or could not be read or had expired</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If evidence provided that they hold a valid blue badge or were transporting a blue badge holder.</li> <li>If the badge had expired within the two weeks prior to the contravention and a new valid badge is produced by the badge holder see statutory ground S1.7 and this is the first contravention of this type.</li> <li>Or on receipt of doctors or social services letter outlining compelling reasons due to mental or physical capabilities of the blue badge holder.</li> </ul>	<ul style="list-style-type: none"> <li>If the motorist has previously been advised to display a valid badge /time clock correctly.</li> <li>If the motorist was parked on a waiting restriction beyond the 3 hour time limit permitted by the blue badge scheme, or on another restriction for which the Blue Badge does not provide an exemption e.g. loading bay.</li> <li>If the motorist has made a similar representation before and had a previous PCN cancelled.</li> </ul>

<b>S9.26 Where the motorist was displaying an expired authorisation to park, i.e. waiver, season ticket, residents permit or visitors permit</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the renewal of the authorisation was delayed by the Council's administrative processes.</li> <li>If it can be established that other reasonably unforeseen circumstances delayed the renewal of an authorisation to park, e.g. sickness on the part of the applicant or a postal dispute/delays (supported by appropriate evidence).</li> <li>In the case of season tickets and residents / visitors parking permits only, if the authorisation had expired by less than 2 days the onus is on the permit holder to display the renewed permit without delay.</li> </ul>	<ul style="list-style-type: none"> <li>In all other circumstances subsequent production of the season ticket/permit will not necessarily cause automatic cancellation of the PCN; check permit records including temporary permit issue log, was there a delay in submission of supporting documents or payment?.</li> <li>If the motorist has previously had a PCN cancelled under similar circumstances.</li> </ul>

<b>S9.27 Where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident's visitor permit.</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If it can be established that the signing and marking of the restriction are incorrect, see statutory ground S7.</li> </ul> <p>Where the motorist had been given a visitor permit to use and misunderstood which location the permit was valid for use in and it is their first contravention of this kind.</p>	<ul style="list-style-type: none"> <li>If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.</li> </ul> <p>If the location of the contravention is unrelated to the location listed on the Permit or the motorist has previously had a PCN cancelled under similar circumstances.</p>

<b>S9.28 Where the motorist is a new resident within a Permit parking area and had parked in a permit bay without displaying a valid permit</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If it can be established that the signing and marking of the restriction are incorrect.</li> </ul>	<ul style="list-style-type: none"> <li>If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.</li> </ul>

<b>S9.29 Where a Council officer or Member parked in contravention and claims to have been on Council business</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If the officer was carrying out emergency work.</li> </ul>	<ul style="list-style-type: none"> <li>If it can be established that the officer/Member could have reasonably parked elsewhere or obtained a parking permit.</li> </ul>

<b>S9.30 Where the motorist claims they were attending a funeral</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If no evidence exists to the contrary, taking into account the sensitivity of this issue.</li> </ul>	<ul style="list-style-type: none"> <li>Only if there is a significant reason to doubt the sincerity of the representations.</li> <li>If the motorist was not parked in a permitted parking place.</li> </ul>



<b>S9.31 Where the motorist says they had stopped to drop someone off</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If the time stopped was consistent with the time required to drop someone off and this activity was not prohibited.</li> <li>• If, in exceptional circumstances and subject to observations times, the motorist had to escort a passenger child, elderly or disabled person.</li> </ul>	<ul style="list-style-type: none"> <li>• If motorist was parked /stopped on school keep clear markings, pedestrian crossing, bus stop clearway or Taxi Rank.</li> <li>• If the motorist could reasonably have been expected to parked legally elsewhere.</li> </ul>

<b>S9.32 Where the motorist claims to be a doctor, nurse, health visitor attending a patient</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If supporting documentation to show that there was urgent need to park in restricted area is provided and/or is exempt under the relevant Order (e.g. emergency services) and if there was no available legal parking place nearby.</li> </ul>	<ul style="list-style-type: none"> <li>• If motorist was not attending a patient in urgent circumstances or if there were alternative legal parking spaces available nearby.</li> <li>• If motorist was parked outside their practice or other place of work for any reason other than to collect supplies for an urgent call.</li> <li>• If motorist was parked in an area which does not correspond with claims made in representations i.e. not near to patient's location.</li> <li>• If the motorist could reasonably have been expected to parked legally elsewhere.</li> </ul>

<b>S9.33 Where the vehicle in question was on police, fire brigade or ambulance duties</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If a senior officer of the service advises in writing that the vehicle was engaged on operational activities.</li> </ul>	<ul style="list-style-type: none"> <li>• In all other circumstances</li> </ul>

**S9.34 Where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time e.g. is temporarily living abroad or in prison.**

**MAY ACCEPT REPRESENTATIONS**

- In no circumstances

**MAY REJECT REPRESENTATIONS**

- On all occasions

**S9.35 Where the registered keeper liable for payment of the PCN is said to have died**

**MAY ACCEPT REPRESENTATIONS**

- Where the circumstances can be confirmed (by sensitive enquiry).

**MAY REJECT REPRESENTATIONS**

- Only if there is evidence to doubt the sincerity of the representations.

**S9.36 Where the motorist states that the restriction was marked after the vehicle had been parked**

**MAY ACCEPT REPRESENTATIONS**

- If records confirm that signing/lining/ placement of cones or suspension notices was likely to have taken place after the vehicle parked.

**MAY REJECT REPRESENTATIONS**

- If there is evidence to show that markings were already in place at the time of parking.

**S9.37 Where the vehicle driven by the motorist is diplomatically registered**

**MAY ACCEPT REPRESENTATIONS**

- In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle.

HCC should be informed of all Penalty Charges un-recovered from keepers of diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and Commonwealth Office [Source – Secretary of State’s Traffic Management and Parking Guidance, Vienna Convention on Diplomatic Relations, Diplomatic Privileges Act 1964 and Government Report on Review of Vienna Convention.

**MAY REJECT REPRESENTATIONS**

- In no circumstances

<b>S9.38 Where the motorist received a Fixed Penalty Notice (FPN) from a police officer and a PCN from a CEO, or has received two PCN's when parked in the same location on the same day</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• Criminal offence takes precedence; if confirmation provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted.</li> <li>• If a previous PCN was served on the same date for the same contravention in the same location.</li> </ul>	<ul style="list-style-type: none"> <li>• In all other circumstances</li> </ul>

<b>S9.39 Where the motorist claims there was no legal place to park</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• Only in the most exceptional of circumstances with evidence to support the exceptional circumstances that has not been considered before.</li> </ul>	<ul style="list-style-type: none"> <li>• In the absence of exceptional circumstances</li> </ul>

<b>S9.40 Where the motorist claims they were parked on private property</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If land search maps confirm location is private property &amp; not subject of the relevant Traffic Regulation Order.</li> <li>• If there is insufficient evidence to establish the precise location of vehicle.</li> </ul>	<ul style="list-style-type: none"> <li>• In all other circumstances.</li> </ul>

<b>S9.41 Where the motorist had parked while asking directions / opening gates to private property</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>• If evidence provided by the CEO does not contradict representations.</li> </ul>	<ul style="list-style-type: none"> <li>• If the CEO's pocket book notes contradict the submission.</li> <li>• If the motorist was parked in an area which does not correspond with claims made in representations.</li> <li>• If the motorist could reasonably have been expected to parked legally elsewhere.</li> </ul>

<b>S9.42 Where the motorist states that the details on the PCN are incorrect, e.g. location or make of vehicle</b>	
<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<ul style="list-style-type: none"> <li>If there is reason to doubt that the PCN was issued correctly, or registration number recorded incorrectly.</li> </ul> <p>Check the vehicle number plates &amp; location in the photos &amp; officer notes.</p>	<ul style="list-style-type: none"> <li>If the PCN was fully and correctly completed.</li> </ul> <p>Vehicle colour and make are subject to CEO error, if no badges or poor light, this does not invalidate the charge notice.</p>

## 7. Frequently Asked Questions

### How Do I Pay a Penalty Charge Notice (PCN)?

You can make payment by Debit card on line at: [www.testvalley.gov.uk/](http://www.testvalley.gov.uk/) and click **Pay** on the 'DO IT ONLINE SERVICES' line on the web page, or as long as you are sure about the amount you need to pay, our customer services team can process your payment by Debit card if you phone 01264 368000 during office hours. Please ensure you have your Debit card details, PCN number and vehicle registration number to hand. Our office hours are 8.30am to 5pm Monday to Thursday, 8.30am to 4.30pm Friday (excluding Bank Holidays and the Christmas/New Year Period).

You can also pay by post with a cheque (please do not send cash by post). Please send your payment to the address on the reverse of the Penalty Charge Notice: Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, SP10 3AJ and write the PCN number on the reverse of the cheque.

Please ensure that you include details of the PCN Number when making the payment and ideally include your name, address and telephone number in case there is a query. 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. You are advised to call us on the 14<sup>th</sup> day to ensure the payment has reached us in time.

You can also visit the Council offices during office hours to pay by Debit card or cheque at our Customer Services. Our office hours are 8.30am to 5pm Monday to Thursday, 8.30am to 4.30pm Friday (excluding Bank Holidays and the Christmas/New Year Period).

### **I don't know how much I should pay or I have several Penalty Charge Notices and don't know which one to 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 PCN and you cannot afford to pay them all, we can advise you of 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?**

Contact us as soon as possible; in certain circumstances the Council will accept instalments. Once the first payment is made against the PCN the Council will freeze the amount outstanding as long as the payments continue to be made according to the agreement the Council make with you.

Where a registered keeper claims financial hardship or where there are multiple Penalty Charges outstanding, the Council may refer you to the local Citizens Advice Bureau or Debt Management Service that has the means to authenticate claims of hardship, which may require a longer arrangement period to settle and assist the debtor to plan their repayments.

Please remember that if you ignore the PCN and further correspondence from us the charge can increase from £25 or £35 to £75 or £105 within a few months and Enforcement Agent (bailiff) charges can increase the debt to several hundred pounds. The earlier you contact us the easier it is for us to help you minimise the debt.

### **I can't afford to pay the Penalty Charge, will you accept a smaller amount?**

The Council does not negotiate the levels of charge; these are laid out in the Legislation.

### **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:

- There were insufficient funds to clear the cheque or it was unsigned or corrections had not been signed against therefore it was not cleared by the bank;
- Your payment was late and the charge had increased because of this (payment is considered in law to be made on the day on which the Council receive it, not the day it was posted to us);
- You paid too little in the first instance;
- You wrote a post dated cheque that could not be banked before the Penalty Charge increased;
- You thought someone else was going to pay it and they didn't;
- You made the correct payment but forgot to include information that linked the payment to the PCN;
- You did not respond to a letter rejecting an appeal;
- You did not respond to correspondence the Council issued which explained the increase in charges;
- The case has been referred to the courts or Enforcement Agents (bailiffs).

### **I have received demands for payment from the Enforcement Agents. Who do I pay?**

The debt will be due to the Enforcement Agents, not the Council. You should contact them directly from the correspondence they send you or from the agent who visits your premises. The Council accept no liability for the amount levied by the Enforcement Agents to offset against their costs as these are set by the Courts.

### **I wish to appeal or make a representation against a Penalty Charge Notice. How do I contact the Council?**

This must be in writing either; online at <http://www.testvalley.gov.uk/parking> and click on "Penalty Charge Notices", by email to [carparks@testvalley.gov.uk](mailto:carparks@testvalley.gov.uk) or by letter to Parking Team, Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, SP10 3AJ.

When you contact us please make sure you include:

- Your full name and postal address,
- The PCN number which starts with either TS or UY,
- The date of contravention.

Please tell us about the circumstances that led to the PCN being issued and why you believe the notice should be cancelled or waived. You should provide as much information and evidence as possible to support what you say because this helps us to identify all the facts and allows us to make the right decision as quickly as possible.

### **I have difficulty in reading, writing or expressing myself- what do I do?**

The Council can help you if you come into the Council offices. Someone who is not directly involved in enforcement will write your appeal or representation from the information you convey to them. They will read it back to you and will ask you to sign it as confirmation of your statement.

Alternatively, a friend or relative, the local Citizen's Advice Bureau, or your local councillor might help you write a letter, but please make sure it is clear who the driver or owner is, so we can make sure we write back to the right person at the right time.

### **How long does it take to make a decision on an appeal or representation?**

All appeals are acknowledged on receipt and in normal circumstances we would expect to respond to your appeal within three or four weeks, allowing for a full investigation of the circumstances. If the Council receive an appeal within the 14 day discount period, we will put the case on hold until we respond, and if the appeal is rejected we will re-offer the discount period for a further 14 days from the date of our letter. However, if an appeal arrives after the discount period has expired, the Council will not reset the discount. If an appeal is received after Notice to Owner the discount period will not be reset as the discount period would have expired before the Notice to Owner was issued. Where an appeal is received following a PCN, Notice to Owner or an appeal is made to the independent adjudication service, the Penalty Charge will be put hold at whatever stage it is at until a decision notice has been sent out.

### **Who can I talk to about this?**

The Council are happy to give further advice if you are unsure about what to do. Please call us on our enquiry line 01264 368000 to discuss your case further.

Many people call us and explain the circumstances leading to the issue of the notice and expect us to make decisions 'on the spot'. The Council are unable to do this as we need the written evidence of why you feel the Penalty Charge should be cancelled, and we will 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 the lines or signs are missing or damaged.

### **Can my Local Councillor, MP or Citizens Advice Bureau help?**

Yes and they may choose to make representations on your behalf.

The Council 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 PCN because of the status of another person representing you);

The Council will only consider relevant information from a third party, so this should not be confused with canvassing to get a PCN waived when it would otherwise remain payable.

## **I returned to my vehicle while the enforcement officer was there and I appealed to him/her – Why didn't they withdraw the Penalty Charge Notice?**

Our enforcement officers are under instructions that once a Penalty Charge Notice has been printed it cannot be withdrawn and the driver or keeper must appeal to us in the normal way. The officers have no authority to withdraw a notice.

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

The Legislation says that after 28 days the Council must issue the Notice to Owner to the Registered Keeper. The only way to avoid the owner becoming aware of the PCN is either to pay the Penalty Charge immediately or to appeal it quickly and pay the charge if the appeal is rejected. A full payment closes the 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 details from DVLA we will issue a Notice to Owner and from that point on, we must correspond with the keeper.

## **I changed my 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 provide evidence that you moved, the date you moved and that you made arrangements for your mail to be forwarded to your new address.

Please note it is an offence to fail to notify 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 no other means of substantiating a change of address is provided.

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

The Legislation made the keeper liable to avoid debate about who should be liable for the payment of the PCN.

## **Why is the Penalty Charge so high?**

The Government sets the Penalty Charge levels.

## **What evidence do you gather when you issue a Penalty Charge Notice?**

This depends on the nature of the contravention. For all PCN's the Council record the following:

- Registration mark
- Vehicle make and colour
- Place, time and date
- The contravention code and description
- The PCN Number (which is created automatically)
- The Enforcement Officers patrol number who issued the Notice
- The amount of charge specified for the contravention

For contraventions involving tickets and permits we also record ticket or permit details such as, expiry time and or date, serial number, road or car park covered by permit or ticket. For contraventions involving time limits we also record valve positions to show the vehicle has not moved. Not all of this information is shown on the PCN.

We also when possible record additional notes in the officers note books, such as conversations with drivers, observations about the nearest signs and line and conditions at the time (leaves, snow, machine faults). We also take photographic evidence of the vehicle to support a Penalty Charge Notice to show any tickets or permits on display in the windscreen and to prove the PCN was secured to the vehicle.

If the Council receive a challenge or representation we can draw on the evidence to help us reach a decision.

### **Can I see the evidence?**

In most cases yes, photographic evidence will be included in our response to any appeal or representation.

If you take your case to adjudication the Council 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.

The Council will only decline to release our evidence where it is linked to an ongoing police investigation or proceedings, or subject to Data protection considerations.

### **What about the Freedom of information Act and the Human Rights Act?**

The Council is subject to the Freedom of Information Act 2000 (FOIA). It has a statutory duty to respond to requests for information. Information may only be withheld from disclosure in limited circumstances. More information is available about FOIA on the Information Commissioner's website at [www.ico.gov.uk](http://www.ico.gov.uk).

The Human Rights Act creates the fundamental right to 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 the Courts. The role of the adjudication service fulfils that right, so there is no conflict between the respective Legislation.

### **What is a Notice to Owner?**

This is the legal notice the Council send out to the Registered Keeper of a vehicle if a PCN remains unpaid or partially paid after 28 days. It tells the keeper the amount outstanding and advises the keeper to pay the amount due or make a representation against the PCN otherwise a surcharge will be added to the debt.

### **What is a Charge Certificate?**

After a minimum of 28 days follows the Notice to Owner and tells the Registered Keeper that a 50% surcharge has been added to the debt and that their right of representation has been lost.



## **What is the Adjudication Service?**

Solicitors and Barristers whose appointment is sanctioned by the Lord Chancellor are located around the Country. They consider cases put forward to them by the Registered Keeper who wishes to appeal. To have an appeal considered, the discount period will have expired, a Notice to Owner will have been served, representation against the Notice to Owner will have been made and rejected by the Council, who will then provide the necessary form on which to make the appeal to the adjudication service.

The essence of the Legislation is that a driver or keeper must make a choice – to pay the PCN 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 costs on both sides, as a deterrent to unnecessary appeals the PCN must be at its full value.

In most cases once an appeal is made it has to be completed. For example; the driver or keeper cannot pay at the discounted rate to minimise costs then appeal to try and win it back. Nor can they appeal and then ask to pay at the discounted rate after an appeal has failed. In exceptional cases the adjudication service may ask the Council to allow payment at the discounted rate following an appeal but this is normally at the discretion of the Council.

## **What is an Order for Recovery of an unpaid PCN?**

This follows the Charge Certificate and tells the Registered Keeper that the unpaid debt for the PCN has been registered with Northampton County Court Traffic Enforcement Centre (the national clearing centre for parking contraventions). It also advises that the £7.00 costs for Court fees is added to the outstanding debt, and failure to pay could result in an application for a warrant to instruct Enforcement Agents to collect the debt.

## **What is a Statement of Truth?**

This is a document you complete and sign after the Order for Recovery has been received if 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 proceedings for contempt of Court may be brought against you if you make or cause to be made a false statement in a statement of truth without an honest belief in its truth.

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

A successful Statement of Truth does not cancel a Penalty Charge; it only serves to instruct the Council to return the PCN to the level that opens up the right to appeal in Legislation (revert back to the Notice to Owner stage).

## **What can an Enforcement Agent (formerly known as a Bailiff) legally do and what can they legally take away?**

A certified Enforcement Agent acting under an Order of Court (a Warrant) can take all reasonable steps to recover a debt. Normally they will send a letter to the debtor’s last known address advising them that a Warrant has been issued and the debt is payable to the Enforcement Agent.

A second letter normally follows this a few weeks later. If these letters are ignored an Enforcement Agent will visit the premises to establish whether the debtor still resides there.

If you get a visit from an Enforcement Agent, regarding a former owner or tenant, or even a person who never lived at your address, you only need to satisfy them that the person pursued does not reside at the address. As long as you co-operate with them and tell them everything you know about the former owner or tenant they are unlikely to trouble you further.

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

They will always try to obtain a settlement in cash (i.e. cash, credit card and sometimes a cheque), and may agree to instalments if it is likely the debtor will stick to an agreement. 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). Household effects will only be taken as a last resort. There are items that they are not allowed to take such as children's clothing and toys, cooking equipment, and heating appliances.

Enforcement Agents are answerable to the Courts for their conduct and most subscribe to a professional code of conduct and practises which includes a complaints procedure with the Enforcement Agent company.

The warrant and any subsequent 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 an 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 from multiple enforcement actions.

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

The debt will increase in line with the procedure outlined above. **Please don't let this happen to you - Don't ignore the documents sent to you, consider paying the Penalty Charge as early as you can to avoid increased charges.**

### **Will parking enforcement Court Orders affect my credit records?**

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 of a property.

It is possible that Court Orders might show up in a detailed search of a persons or company history.

**If you have any other questions that have not been covered in this section then please contact us to discuss your concerns. We may not have the answer immediately but will endeavour to respond as quickly as possible.**

**RECORD OF AMENDMENTS**

<b>Date</b>	<b>Section</b>	<b>Amendment</b>	<b>Notes</b>	<b>Signature</b>