

NORTH LINCOLNSHIRE COUNCIL

**HIGHWAYS AND PLANNING CABINET
MEMBER**

PENALTY CHARGE NOTICE CHALLENGE GUIDELINES

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To seek Cabinet Member approval for the council's Penalty Charge Notice (PCN) Challenge Guidelines.

2. BACKGROUND INFORMATION

- 2.1 In July 2006, approval was given for proposals for the Decriminalisation of Parking Enforcement (herein after to be referred to as Civil Parking Enforcement or CPE) in North Lincolnshire to be progressed. The effect of CPE is to make the council responsible for the enforcement of parking both on and off street, whereas previously the council only enforced its off street pay and display and pay on foot car parks.
- 2.2 CPE powers came into effect on 1 March 2010 and the council has therefore now taken over enforcement of non-endorsable on street parking contraventions from the police.
- 2.3 One of the final processes to be completed is formal approval of the council's PCN Challenge Guidelines for dealing with appeals. This will provide guidance for parking officers and information to the public about how appeals against the issue of PCNs may be dealt with. A copy of the draft guidelines is appended.

3. OPTIONS FOR CONSIDERATION

- 3.1 Cabinet Member can either approve the guidelines or not.

4. ANALYSIS OF OPTIONS

- 4.1 Every appeal will be considered on its own merits, with individual circumstances and available evidence being taking into account. The proposed PCN Challenge Guidelines cover a wide range of circumstances under which drivers are likely to appeal and outlines the council's approach to how these may be managed. The underpinning principle throughout the guidelines is the need to achieve consistency wherever possible in dealing with appeals against PCNs.

- 4.2 In light of the recently approved Parking Enforcement Policy, the use of discretion by the council's Civil Enforcement Officers (CEOs) will be very limited. This is to ensure a consistent approach to enforcement. Use of discretion is appropriate however when dealing with appeals. This provides the driver/owner the opportunity to make both an informal and formal appeal and, if these are rejected by the council, a final appeal to the independent Traffic Penalty Tribunal (TPT).
- 4.3 Approving the proposed PCN Challenge Guidelines will ensure an appropriate framework is in place for dealing with appeals and will also provide an effective information source for the public.
- 4.4 Not approving the proposed guidelines may mean the council operating inconsistently with other councils and not in accordance with national guidance. It could also potentially compromise the council's position in regard to future parking appeals presented to the TPT.

5. RESOURCE IMPLICATIONS

5.1 Finance

- 5.1.1 There are no significant financial implications to this report as the CPE business model is based on enforcement/appeals being carried out in line with national guidance, which is broadly reflected in the proposed guidelines.

5.2 Staffing, Property and I.T.

- 5.2.1 There are no staffing, property or I.T. implications to this report.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 Statutory

- 6.1.1 The legal responsibility for enforcement and dealing with appeals for parking now rests with the council.

6.2 Environmental

- 6.2.1 Enforcement discourages illegal and inappropriate parking, some of which adversely impacts on the efficient movement of traffic and can lead to congestion, increased fuel use and increased exhaust emissions.

6.3 Diversity

- 6.3.1 A stage one diversity impact assessment has been carried out

and is available for inspection in the Safer Roads Team, Church Square House.

6.4 Section 17 – Crime and Disorder

6.4.1 There are no crime and disorder implications to this report.

6.5 Risk/Other

6.5.1 Dealing with appeals appropriately and consistently reduces the risk to the council's reputation and conflict with members of the public. The proposed guidelines will demonstrate a fair and reasonable approach to dealing with appeals.

7. OUTCOMES OF CONSULTATION

7.1 The draft Penalty Charge Challenge Guidelines have been circulated to a wide range of stakeholders. To date, no significant objections or comments have been received. It is felt the draft guidelines broadly reflect the feedback received from the previous CPE consultation and also reflect the nature of parking enforcement services provided in other local authority areas, which adopted CPE powers some time ago. As such, it is well tested and felt to be robust.

7.2 In addition to the above, CPE has been publicised in a series of articles in the council's Direct magazine and it was also discussed with town and parish council representatives at the Town and Parish Council Liaison meeting on 15 October 2009. A series of 'drop-in' question and answer sessions for local businesses, town and parish councils, elected members and other stakeholders were held at various locations throughout the area, as follows:

Epworth on 17 November 2009
Brigg on 18 November 2009
Scunthorpe on 19 November 2009
Barton on 23 November 2009
Crowle on 16 December 2009
Pittwood House 09 and 10 March 2010

CPE has also been discussed at various Neighbourhood Action Team (NAT) meetings. Feedback from consultees has generally been positive.

7.3 More generally, a comprehensive package of measures was implemented to publicise the start of CPE. This included the issuing of approximately 500 warning notices posted on vehicles, newspaper articles, radio advertising, further information in Direct magazine and information displayed on the council's external notice boards and its website.

- 7.4 There is already substantial evidence that illegal parking is something the general public and local businesses want action taking against, so there should be a high level of underlying support for the service.
- 7.5 Illegal parking can adversely affect local businesses, which often rely on a regular turnover of vehicles in time-limited parking areas. A number of town centre businesses have expressed a desire to see increased levels of enforcement in key areas.

8. RECOMMENDATIONS

- 8.1 Cabinet Member approves the attached PCN Challenge Guidelines.

SERVICE DIRECTOR HIGHWAYS AND PLANNING

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Background Papers used in the preparation of this report

“Operational Guidance to Local Authorities: Parking Policy and Enforcement – Traffic Management Act 2004” published by TSO (for the DfT) 25 March 2008.
Highways and Planning Cabinet Member report “Parking Enforcement Policy” 19 February 2010.
“Guidance Policies for the Enforcement and Cancellation of Penalty Charge Notices” Kent Parking Managers’ Group, April 2006.



CIVIL PARKING ENFORCEMENT

GUIDELINES FOR THE CONSIDERATION OF CHALLENGES AGAINST PENALTY CHARGE NOTICES

POLICIES SET OUT IN THIS
DOCUMENT PROVIDE GUIDANCE
ONLY.

EACH CASE MUST BE CONSIDERED
ON ITS OWN MERITS, TAKING INTO
ACCOUNT ALL OF THE EVIDENCE
AVAILABLE AND THE
EXCEPTIONALITY OF THE
CIRCUMSTANCES

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INTRODUCTION

The policies in this document are intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations.

This is consistent with current best practice and aims to provide clarity, consistency and transparency within the enforcement process, compliance with the DfT Parking Policy and Enforcement Operational Guidance to Local Authorities and within the aspirations of the Traffic Penalty Tribunal and the Local Government Ombudsman.

What is important about these policies is that they represent a foundation upon which fairness and discretion can be applied. The importance of flexibility in these matters has been recognised by the courts and, as a consequence, decisions made by councils must not be fettered by being unduly formulaic.

The policies address the following:-

- The statutory grounds upon which representations may be made
- Mitigating circumstances
- The acceptance or rejection of representations

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

These policies will be subject to ongoing review.

STATUTORY GROUNDS TO MAKE REPRESENTATIONS

THE TRAFFIC MANAGEMENT ACT 2004; CIVIL ENFORCEMENT OF PARKING CONTRAVENTIONS (ENGLAND) REPRESENTATIONS AND APPEALS REGULATIONS 2007

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1 The contravention did not occur:	
S1.1 Where the motorist claims he/she was loading/unloading	
<p><u>On a waiting prohibition or in a controlled bay:</u></p> <p>If evidence is available or provided to show:</p> <ol style="list-style-type: none"> 1. Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from 'legal' parking place. 2. Loading/unloading activity was adjacent to the premises concerned. 3. Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity). <p>If in the course of business, including commercial delivery/collection, couriers, multi drop parcel carriers, removal services etc.</p> <p>CEO's should be made aware that delivery drivers/staff are expected to secure their vehicle when it is unattended and can legitimately be locked during some stages of the delivery process.</p> <p>Once the delivery process is complete the driver must move the vehicle even if it within the maximum period allowed for loading/unloading.</p> <p>[Source – DfT Operational Guidance, Traffic Orders]</p>	<p><u>on a school zig zag markings:</u></p> <p><u>on bus stop clearways:</u></p> <p><u>on Taxi ranks</u></p> <p><u>on Police bays</u></p> <p><u>where loading is prohibited-:</u></p> <p><u>in car parks:</u> (except when depositing materials in recycling bins)</p> <p>If a valid pay & display ticket was not purchased first</p>
<u>NOTES</u>	

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

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S1.5 Where the motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver)</p>	
<p>If the Civil Enforcement Officer's (CEO) pocket book and/or computer notes confirm that the vehicle drove away before a Penalty Charge Notice (PCN) could be served, i.e. PCN not handed to the driver or fixed to the vehicle.</p>	<p>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.</p>
<p><u>Service of PCN's By Post</u></p> <p>If the PCN is not served at the time of issue by affixing to the windscreen of the vehicle concerned or by handing it to the driver, there are two circumstances when a PCN may be served by post (within 14 days of the contravention);</p> <ol style="list-style-type: none"> 1. If the CEO has been prevented, for example by force, threats of force, obstruction or violence, from serving the PCN by either affixing it to the vehicle giving it to the person who appears to be in charge of the vehicle. <p>The threat of violence of force directed towards the CEO must be such that the officer concerned had substantial reason to fear that any attempt to serve the notice would result in them being assaulted. Details of the incident must be recorded in a hand held computer or pocket notebook and the incident reported to the police.</p> <ol style="list-style-type: none"> 2. If the CEO had started to issue the PCN, i.e. has completed his/her observations and had either started to write the PCN or put the data into the hand held computer and would, in other circumstances, have to cancel the PCN, but did not have enough time to finish or serve it before the vehicle was driven away. <p>CEO's should continue to issue a PCN once they have started. However, as the driver's return to the vehicle presents an opportunity for the CEO to speak with, it may be the most appropriate course of action to draw attention that the vehicle is parked in contravention and to ask the driver to comply with the restriction. It is of course also possible that a driver will not be willing to speak to the CEO and will take the opportunity to drive away before the PNN has been served. In such circumstances providing the CEO has actually started to issue the PCN (a CEO has not started to issue a PCN if s/he is observing the vehicle or jotting down some details, it is only when the CEO starts to create the PCN and would otherwise have to cancel it, that they have started to issue it). It may, following careful consideration of all the circumstances be served by post.</p>	
<p><u>NOTES</u></p>	

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1.8 Where the motorist claims that a pay & display ticket was purchased and displayed.	
<p>If the motorist produces a pay & display parking ticket that was valid at the time the PCN was issued and the CEO confirms:</p> <ol style="list-style-type: none"> 1. A face down ticket was on display in the vehicle. 2. A ticket was displayed but partially concealed so that relevant details (expiry time, date, etc) could not be seen and checked. <p>And providing that either:</p> <ul style="list-style-type: none"> • The serial number printed on the back of a face down ticket was visible and could be seen and recorded by the CEO. • The serial number of a partially concealed ticket was visible and could be seen and recorded by the CEO. <p>Or</p> <ul style="list-style-type: none"> • Where the registration number details entered at the time of purchase and printed on the ticket produced, match the registration number details of the vehicle concerned, subject to some latitude being allowed for errors. 	<ul style="list-style-type: none"> • If the motorist is unable to produce a ticket that was valid at the time the PCN was issued. • The CEO cannot confirm that either a face down ticket or partially concealed ticket was on display at the time the PCN was issued. • The serial number of the ticket produced does not match the serial number printed on the back of the ticket seen by the CEO. • Where registration number details entered at the time of purchase and printed on the ticket produced, do not match the registration number of the vehicle concerned, subject to some latitude being allowed for errors. • When evidence confirms that the ticket produced was not purchased by the motorist (obtained from another motorist, found in the car park, etc). • In circumstances when a PCN has been issued in similar circumstances on a previous occasion; or has been cancelled in accordance with this policy on previous occasions; or it is decided that due to the number of times, or the frequency that PCN's have been cancelled previously, not to exercise the same discretion on the occasion concerned.
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S2 The motorist was not the owner/keeper of the vehicle at the time of the contravention	
S2.1 Where the current registered keeper claims that the vehicle was disposed of before the contravention occurred	
<p>If the current registered keeper is able to provide proof that the vehicle was disposed of before the contravention, i.e. a bill of sale, registration documents, insurance documents or a letter from the DVLA; and/or</p> <p>If the current registered keeper is able to provide the full name and address of the person to whom they disposed of the vehicle.</p> <p>ACTION – send a new Notice to Owner (NtO) to the person named by the current registered keeper.</p>	<p>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 dispose of the vehicle.</p> <p>If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide.</p>
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S2.2 Where the current registered keeper claims that the vehicle was purchased after the contravention occurred	
<p>If the current registered keeper is able to provide proof that the vehicle was purchased after the contravention, i.e. an invoice, registration documents, insurance documents or a letter from the DVLA; and/or</p> <p>If the current registered keeper is able to provide the full name and address of the person from whom they purchased the vehicle.</p>	<p>If the current registered keeper is unable to prove that they purchased the vehicle after the contravention nor provide the name and address of the person from whom they bought the vehicle.</p> <p>If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide.</p>

NOTES

MAY ACCEPT REPRESENTATIONS

MAY REJECT REPRESENTATIONS

S2.3 Where the motorist claims that they never owned the vehicle

If the DVLA confirm that the motorist was not the registered keeper at the time of the contravention.

If the DVLA confirm 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 time of hire (see policy S4, below).

NOTES

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S3 The vehicle had been taken without owner's consent	
S3.1 Where the current registered keeper claims that the vehicle had been stolen	
If the registered keeper provides a valid police crime report reference number.	<p>If the current registered keeper is unable to provide any proof of theft.</p> <p>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.</p>
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S3.2 Where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)	
In no circumstances.	In all circumstances because the registered keeper is always liable, save for when a hire agreement exists (see policy S4, below).
NOTES	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S4 The owner is a hire company and have supplied the name of the hirer	
<p>If the hire company are able to provide proof that the vehicle was hired at the time of the contravention, i.e. a signed agreement.</p> <p>If the hire company are able to provide the full name and address of the person to whom they hired the vehicle.</p> <p>ACTION – send a new NtO to the person named by the hire company.</p>	<p>If the hire company are unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom they hired the vehicle.</p> <p>If the person named by the hire company as the person to whom they hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention.</p> <p>If the vehicle was being used as a courtesy car without an agreement signed to accept responsibility for PCN's issued.</p>
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S4.1 Where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention.	
<p>Only when a hire agreement exists (see policy S4, below).</p>	<p>In all other circumstances because the registered keeper is always liable, including where the vehicle was left in the care of a garage.</p>
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S5 That the penalty charge exceeded the amount applicable in the circumstances of the case.</p>	
<p>If the PCN and/or NtO showed the incorrect amount of penalty charge, i.e. the wrong penalty charge band.</p>	<p>If the PCN or NtO showed the correct amount of penalty charge.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S6 That there has been a procedural impropriety on the part of the enforcement authority.</p>	
<ol style="list-style-type: none"> 1. Where it is established that the enforcement authority has failed to observe any requirements imposed on it by the Traffic Management Act or Traffic Management Act regulations in relation to the imposition or recovery of a penalty charge or other sums. 2. The taking of any step, whether or not involving the service of a document and the purported service of a Charge Certificate in advance of the time scale set out in the regulations. 3. If a FPN, as defined by section 52 of the Road Traffic Offenders Act 1988, has been given in respect of that conduct constituting the parking contravention in respect 	<p>If it is established that:</p> <ol style="list-style-type: none"> 1. All requirements of the Traffic Management Act have been fully and correctly observed by the enforcement authority. 2. That service of documents has taken place in compliance with relevant time scales. 3. A FPN has not been served.

<p>of which the PCN has been given is the subject of criminal proceedings; only likely to be the case on or near pedestrian crossings or on or near a pedestrian crossing.</p>	
<p><u>NOTES</u></p>	

<p>MAY ACCEPT REPRESENTATIONS</p>	<p>MAY REJECT REPRESENTATIONS</p>
<p>S7</p> <ol style="list-style-type: none"> 1. That the Order which is alleged to have been contravened in relation to the vehicle concerned is invalid. 2. In the case where a PCN was served by post on the basis that a CEO was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no CEO was so prevented. 3. That the NtO should not have been served because the penalty charge had already been paid in full or by the amount reduced by any discount set within the period set. 	
<ol style="list-style-type: none"> 1. If a relevant Order was found to be invalid. This does not apply to Orders to which Part VI of Schedule 9 to Road Traffic Regulation Act 1984 applies. 2. If in accordance with the council's policies in connection with the prevention of service of PCN's, it is determined that a CEO was not prevented from fixing the PCN to the vehicle or handling it to the driver. 3. It is established satisfactorily that the penalty charge had been paid. 	<ol style="list-style-type: none"> 1. If a relevant Order was found to be valid. 2. If in accord with the council's policies in connection with the prevention of service of PCN's it is determined that a CEO was prevented from fixing the PCN to the vehicle or handling it to the driver. 3. If payment has not been received.

<u>NOTES</u>	
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MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S8 Any other information that the motorist/vehicle owner want the council to take into consideration.</p> <p>Representations must be made within 28 days of service of the NtO, however, discretion should be exercised when the vehicle owner provides a valid reason for the delay and has strong grounds for representation.</p>	
<p>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.</p> <p>A person who recklessly or knowingly makes a representation to the council or an adjudicator which is false in a material particular, is guilty of an offence for which, on summary conviction, a fine may be imposed.</p>	
<u>NOTES</u>	

MITIGATING CIRCUMSTANCES

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

<u>NOTES</u>	
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MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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MC2 Where the motorist claims to be a doctor, nurse, health visitor attending a patient.

If the motorist concerned possesses a Medical Dispensation badge (BMA, HEBS) that the council concerned recognises and approves and/or is exempt under the relevant Order.

Or

If the motorist produces evidence that they were responding to an urgent medical call and there was no nearby legal parking place.

If motorist was not attending a patient in urgent circumstances or if there were legal parking spaces nearby.

If motorist was parked outside their practice or other place of work for any reason other than to collect supplies for an urgent call.

If motorist was parked in an area which does not correspond with claims made in representations, i.e. far from patient property, say, in a car park.

<u>NOTES</u>	
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MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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MC3 Where the motorist stopped to use the toilet

On production of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation.

In all other circumstances.

<u>NOTES</u>	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC4 Where the motorist stopped to collect (prescribed) medication from a chemist	
Only in the most grave, urgent and exceptional circumstances and the use of a 'legal' parking place would have caused an unacceptable delay.	In any lesser circumstances.
<u>NOTES</u>	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC5 Where the motorist was a patient visiting a doctor's surgery	
If the motorist can provide a letter from a doctor to confirm that the visit was very urgent and that they were unable to walk from the nearest legal parking space.	<p>If the motorist was not the patient but only driving the vehicle carrying the patient.</p> <p>If the motorist was attending a pre-arranged, non-urgent appointment.</p> <p>If the motorist could reasonably have been expected to have parked legally elsewhere.</p>
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC6 Where the motorist claims to have been recently bereaved	
<p>If no evidence exists to the contrary, taking into account the sensitivity of this issue on first occasion.</p>	<p>Only if there is significant reason to doubt the sincerity of representations, i.e. the CEO's notes indicating that the motorist was going about a normal day, say, shopping or working, or the bereavement is considered to be a long time ago.</p>
<u>NOTES</u>	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC7 Where the motorist was delayed in returning to their vehicle and parking time purchased had expired	
<p>If supported by appropriate evidence, the motorist's representations claim that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional.</p> <p>If motorist's vehicle had broken down, subject to concurrence with policy MC22, below.</p> <p>If the motorist was unable to drive, since parking the vehicle.</p>	<p>If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop.</p> <p>If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or commuting.</p> <p>If the motorist was unable to drive since parking due to excess alcohol in the body or had been detained and charged by the police.</p>
<u>NOTES</u>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>MC9 Where the motorist left the vehicle parked without a valid ticket on display to obtain change</p>	
<p>If the motorist had not left the car park, or on-street pay and display area, while obtaining change and a ticket was purchased.</p> <p>CEO’s evidence confirms there was either no one in the car park who may have been obtaining or trying to obtain change, queuing for or purchasing a car park ticket from a machine or that any individuals seen who may have been doing so, having been allowed sufficient time to do so did not return to the vehicle under observation.</p>	<p>If the CEO’s notes indicate that the motorist returned to the vehicle while the PCN was being issued:</p> <ul style="list-style-type: none"> • Having apparently completed the purpose which led to the vehicle being parked in the first place, i.e. carrying shopping etc. • Having obtained change outside the car park or away from the on-street pay and display area.
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC10 Where the motorist claims to have been unaware of charges or restrictions on the car park relating to vehicle's class or weight.	
If reference to restrictions on tariff board(s) are incorrect or missing.	In all other circumstances.
<u>NOTES</u>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC12 Where the motorist had parked with one or more wheels outside of a marked bay in a car park.	
Only in the most exceptional of circumstances that were outside the motorists control and are supported by incontrovertible evidence.	When clear and incontrovertible supporting evidence (photographs/sketch plan) is available.

<u>NOTES</u>	
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MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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MC13 Where the motorist is a current Blue Badge holder/transporting a current Blue Badge holder and they did not have their Blue Badge and/or clock on display or could not be read or had expired.

If it can be established that this is the motorist's first contravention of this type and they can provide evidence that they are a Blue Badge holder or were transporting a Blue Badge holder.

If the motorist has previously had a PCN cancelled for the same contravention and has been warned to display a valid badge/time clock, correctly in future.

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.

<u>NOTES</u>	
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MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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MC14 Where the motorist claims to have been unaware of the existence of a controlled parking zone

If it can be established that the signing and marking of the CPZ is at fault, see policy S1.3 above.

In all other circumstances

<u>NOTES</u>	
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MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>MC15 Where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents permit, business permit or visitors permit.</p>	
<p>If the renewal of the authorisation was delayed by the council's administrative process.</p> <p>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).</p> <p>In the case of resident's and business parking permits only, if the authorisation had expired by less than 1 month.</p>	<p>In all other circumstances.</p> <p>In the event of more than one vehicle registration included on the season ticket or permit, subsequent production of the season ticket will not necessarily cause automatic cancellation of the PCN as the season ticket may have been used on the other vehicle.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>MC16 Where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident's or visitor permit.</p>	
<p>In no circumstances.</p>	<p>On all occasions</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC17 Where the motorist is a new resident within a controlled parking zone and had parked in a residents bay without displaying a valid residents permit.	
In no circumstances.	On all occasions.
<u>NOTES</u>	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC18 Where the motorist had parked incorrectly in a controlled bay on-street	
If it can be established that the motorist was genuinely loading or unloading, subject to compliance with policy S1.1 above.	On all occasions
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC19 Where the motorist assumed that they were entitled to “a period of grace”.	
In no circumstances.	In all circumstances.
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC 20 Where the motorist claims they were attending a funeral	
If no evidence exists to the contrary, taking into account the sensitivity of this issue.	Only if there is a significant reason to doubt the sincerity of the representations.
<u>NOTES</u>	

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

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

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

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC26 Where the motorist claims to have been collecting or depositing monies at a bank	
If the procedure explained in the motorist's representations is consistent with the allowance for loading and unloading, see Policy S1.1, above.	In all other circumstances.
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC27 Where the motorist claims to have been unaware of a temporary parking restriction or special event restriction	
<p>If the motorist claims that there was no indication of a restriction, and the CEO's notes/photographs do not confirm that appropriate signing was in place.</p> <p>If the process followed to make the temporary order was defective in some way.</p>	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.
<u>NOTES</u>	

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC30 Where the vehicle driven by the motorist is diplomatically registered	
<p>In all circumstances. <u>A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle.</u></p> <p>NLC should be informed of all penalty charges unrecovered from keepers of diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and Commonwealth Office.</p> <p>[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 ...]</p>	<p>In no circumstances.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC31 Where the motorist received a Fixed Penalty Notice (FPN) from a police officer or Police Community Support Officer (PCSO) when parked in the same location.	
<p>To prevent ‘double jeopardy, if confirmation provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted.</p>	<p>In all circumstances.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC32 Where a council officer or Member parked is in contravention and claims to have been on council business	
If the officer was carrying out emergency or other statutory work or other exempted work.	If it can be established that the officer/Member could have reasonably parked elsewhere.
<u>NOTES</u>	

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

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

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC37 Where the motorist claims there was no legal place to park	
<p>Only in the most exceptional of circumstances.</p>	<p>In the absence of exceptional circumstances.</p>
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC38 Where the motorist claims they were parked on private property	
<p>If land search maps confirm location is private property and not subject of the relevant Traffic Regulation Order.</p> <p>If there is insufficient evidence to establish location of vehicle.</p>	<p>In all other circumstances.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC39 Where the motorist was delayed in returning to their vehicle parked in a limited waiting parking place.	
<p>If supported by appropriate evidence, the motorist's representations claim that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional.</p> <p>If motorist's vehicle had broken down, subject to concurrence with policy MC22 above.</p> <p>If the motorist was unable to drive, since parking the vehicle.</p>	<p>If the delay described by the motorist was not exceptional, i.e. queuing in a shop.</p> <p>If the motorist simply underestimated the time needed and could have reasonably purchased more time.</p> <p>If the motorist was unable to drive since parking due to excess alcohol in the body or had been, were detained by the police for any reason, unless subsequently released without charge or proven innocent.</p>
<p><u>NOTES</u></p>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC41 Where the motorist stopped to answer mobile phone	
In no circumstances.	On all occasions
<u>NOTES</u>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC43 Where the motorist states they were unaware of enforcement on Bank/Public holidays	
In no circumstances.	On all occasions
<u>NOTES</u>	

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

RECORD OF AMENDMENTS			
Date	Section	Amendment	Notes