

GUIDANCE ON THE CONSIDERATION OF CHALLENGES AGAINST PENALTY CHARGE NOTICES ISSUED UNDER THE TRAFFIC MANAGEMENT ACT 2004

The information in this document is intended for general guidance purposes only. Each case is considered on its merits, taking into account all the evidence available, including Civil Enforcement Officer notes and photographs, and the exceptionality of the circumstances. The information in this guidance does not bind the Council to cancel penalty charge notices nor to reject challenges or representations in the circumstances described below.

General Guidance on parking scenarios.

Pay and Display ticket not displayed

The regulations state that a pay and display ticket must be purchased at the time of parking and must be clearly displayed in the windscreen of the vehicle.

*The Council may **accept** your challenge/representation on the first occasion only, if your payment ticket has fallen from the windscreen and cannot be seen. You must produce a valid payment ticket.*

*The Council may **reject** your challenge/representation if you fail to produce a valid ticket, if the ticket has been observed in another vehicle or has been seen being obtained from another motorist, or has been displayed deliberately in such a way that the information cannot be seen, or there appears to be an inconsistency between the information given in the challenge compared with the Civil Enforcement Officers pocket book notes and photographs taken at the time.*

Pay and Display machine not working

If a machine is not working please use another machine at the location. There are very few places where only one machine is located within the parking area. If your coins fail to register please reject them and try again or use a different coin or different machine.

*The Council may **accept** your challenge/representation if the engineer's report proves the machine is not working and there is only one machine at the location.*

*The Council may **reject** your challenge/representation if the engineer's report does not prove that it was not working at the time or if there is another machine which could have been used.*

Gone For Change

The regulations require that parking time must be purchased at the time of parking. No time is allowed to go and get change.

*The Council will **reject** challenges/representations where the motorist has not paid and displayed a payment ticket clearly in the windscreen.*

Loading/Unloading/Delivering

Consideration can be given if a delivery or consignment note is produced which relates to the date and location in question.

*The Council may **accept** challenges/representations where documentary evidence is presented to show that a loading/unloading or delivery was taking place from an allowed parking place or yellow line to a nearby premises.*

*The Council may **reject** challenges/representations where documentary evidence is not presented, or the loading unloading/delivery was not being carried out to a nearby premises, or the vehicle was parked where loading/unloading/deliveries is not allowed due to restrictions in the regulations or there appears to be an inconsistency between the information given in the challenge compared with the Civil Enforcement Officer's pocket book notes and photographs taken at the time.*

Disabled Blue Badges

It is Council policy to treat Blue Badge Holders sympathetically for a first parking contravention as long as the car has not been parked somewhere that the concessions do not apply.

Disabled driver – forgot to display badge/time-clock.

*The Council will **accept** challenges/representations on the first occasion only but you must enclose a copy of your badge.*

*The Council may **reject** your challenge/representation if there are previous penalty charge notices issued to the vehicle or if the badge is not valid or you have parked where the concession does not apply or there appears to be an inconsistency between the information given in the challenge compared with the Civil Enforcement Officer's pocket book notes and photographs taken at the time.*

Disabled driver - not aware they needed to buy a pay and display ticket in the car park (where applicable).

*The Council will **accept** challenges/representations on the first occasion only. You may be required to produce a copy of your badge unless the Civil Enforcement Officer has recorded that it was displayed.*

*The Council may **reject** your challenge/ representation if there are previous penalty charge notices issued to the vehicle or you have had a previous penalty charge notice cancelled for this contravention or there appears to be an inconsistency between the information given in the challenge compared with the Civil Enforcement Officer's pocket book notes and photographs taken at the time.*

Disabled badge holders who have a disability tax-exempt vehicle may park free of charge in car parks.

*The Council will **accept** challenges/representations if the tax disc shows that the vehicle is tax exempt on grounds of disability and the Civil Enforcement Officer has failed to*

observe this. The Council may **reject** your challenge/representation if the tax exemption does not apply to the vehicle which incurred the penalty charge notice.

Signage

Signage must comply with the Traffic Signs Regulations and General Directions legislation and must comply with the relevant Council Traffic Regulation Order.

*The Council will **accept** challenges/representations where the signs or markings do not comply with the regulations.*

*The Council may **reject** challenges/representations where the signs or markings comply with the regulations.*

School zig zags

Enforcement of the zigzag markings outside schools is a priority due to safety concerns and the hazards that parked cars cause. Collecting or dropping off pupils is not permitted.

*The Council may **accept** challenges/representations only if there has been a serious medical emergency and documentary evidence is produced.*

*The Council will **reject** challenges/representations in all other circumstances, as parking should not occur for safety reasons.*

Vehicle Breakdowns

If your vehicle has broken down, evidence must be provided in the form of a garage report or confirmation from a recovery service indicating what the problem was.

*The Council may **accept** your challenge/representation if a garage/breakdown service report is provided showing the breakdown was beyond the motorist's control and the dates tie up with the date of the parking contravention.*

*The Council may **reject** your challenge/representation if no report can be provided or other independent evidence of the breakdown or if the breakdown had been avoidable if regular maintenance had taken place.*

*The Council will **reject** your challenge/representation if the vehicle had run out of petrol.*

Medical Emergencies

*The Council may **accept** your challenge/representation if you have been delayed due to a serious medical emergency and can provide evidence in the form of a copy of the hospital admission record or supporting statement from a GP.*

*The Council may **reject** your challenge/representation if you are unable to supply evidence of a serious medical emergency or the evidence is not relevant to the parking contravention committed or the date this took place.*

Illness

*The Council may **accept** your challenge/representations if evidence can be presented as above as to the seriousness of the illness.*

*The Council may **reject** your challenge/representation if no supporting evidence is presented or the illness is not of an emergency nature.*

The Council may consider that if you are well enough to drive, you are well enough to comply with parking regulations.

Parking in contravention to visit a Pharmacist for medication is not a valid reason for cancellation.

Deceased

*If the registered owner of the vehicle has passed away after the issue of the penalty charge notice, the Council will **accept** your challenge/representation if we receive a copy of the death certificate or letter from the solicitor handling the estate.*

Routine medical appointments

To attend a routine appointment at hospital or doctors surgery, you are expected to park legally and where appropriate pay for parking time. It is not sensible to use a limited waiting bay for hospital appointments as these are prone to over-running. Please use the hospital car park or other long term parking places.

*The Council may **accept** your challenge/representation if following your appointment you are admitted to hospital (see medical emergencies above) and had parked legally to attend your appointment.*

*The Council may **reject** your challenge representation if there is no evidence of a medical emergency.*

Births

*The Council may **accept** your challenge/representation if there are complications which are deemed to be a medical emergency and evidence is provided (see medical emergencies above).*

*The Council may **reject** your challenge/representation if birth is considered to be a routine matter.*

The Council will not cancel in the case of routine births where the father or other relative wishes to attend the birth.

Visiting patients in hospital

Visitors to hospitals are expected to park legally while they visit relatives and friends.

*The Council may **accept** your challenge/representation only if a medical emergency occurs whilst you visit the hospital and evidence is provided (see medical emergencies above).*

*The Council may **reject** your challenge/representation in all other circumstances.*

Taking someone into hospital.

*The Council may **accept** your challenge/representation if you have taken someone to hospital in an emergency and evidence is provided (see medical emergencies above).*

*The Council may **reject** your challenge/representation if this is not considered to be an emergency or evidence cannot be provided.*

*The Council will **reject** challenges/representations where the driver was merely dropping someone off to attend hospital for a pre arranged appointment.*

Permits/Season tickets

If you have been issued with a permit or season ticket to park in a specific car park or area, it must be clearly displayed within the windscreen of the vehicle which is authorised to park. If you have paid for your permit but have not yet received it, you are not entitled to park. You should comply with the regulations for non permit holders. If you have paid for your season ticket but have not received it you should pay for your parking until the season ticket arrives.

*The Council may **accept** your representations on the first occasion only, if your permit or season ticket has fallen from the windscreen and is produced and is valid for the parking place and is valid for only one vehicle.*

*The Council may **reject** your challenge/representation if the permit or season ticket is not displayed clearly or is not valid for the place where you parked or is valid for more than one vehicle or there appears to be an inconsistency between the information given in the challenge compared with the Civil Enforcement Officer's pocket book notes and photographs taken at the time.*

Scratch cards

If you have a scratch card enabling you to park, it must be validated as indicated on the card and the details completed. It must be displayed clearly in the windscreen.

*The Council may **accept** your representations on the first occasion only, if your permit or season ticket has fallen from the windscreen and is produced and is valid for the parking place and is valid for only one vehicle.*

The Council may **reject** your challenge/representation if the scratch card has not been displayed clearly or has not been validated correctly or is not valid for the place where you have parked or there appears to be an inconsistency between the information given in the challenge compared with the Civil Enforcement Officer's pocket book notes and photographs taken at the time.

The Specified Grounds of Representation are

The alleged contravention did not occur

The Council may **accept** your representation if you can supply evidence to prove that the contravention did not occur.

The Council may **reject** your representation if we are satisfied that our evidence indicates that the contravention did occur.

The recipient of the Notice to Owner was never the owner of the vehicle in question; had ceased to be its owner before the date on which the alleged contravention occurred; or became its owner after that date.

The Council may **accept** your representation if the DVLA confirm that you never owned the vehicle. The Council may **reject** your representation if the DVLA cannot confirm that you never owned the vehicle or the information provided by the previous keeper appears to be accurate and consistent.

The Council may **accept** your representation if you are able to provide evidence regarding the purchase (i.e. a bill of sale, registration document, letter from the DVLA) or disposal of the vehicle (name and address of purchaser, registration document).

The Council may **reject** your representation if you are unable to prove that you purchased the vehicle after the date of contravention or sold it before the date of the contravention, and are unable to provide a valid name and address of the purchaser.

The vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner. Liability remains with the owner of the vehicle unless it has been taken without their consent. Liability cannot be transferred to a third party who may have driving the vehicle at the time.

The Council may **accept** your representation if you supply a police crime reference number which proves that the vehicle had been stolen at the time of the contravention. The Council may **reject** your representation if you cannot provide a police crime reference number; or if the number does not prove that

the vehicle was stolen at the time of the contravention; or the police are not satisfied that the vehicle was stolen.

The recipient is a vehicle-hire firm and:

the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and

the person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN served in respect of any contravention involving the vehicle.

*The Council may **accept** your representation if a valid hire agreement is presented which has been signed by the hirer and is valid for the date of the contravention.*

*The Council may **reject** your representation if a valid hire agreement is not presented; or which has not been signed by the hirer; or is not valid for the date of the contravention; or does not constitute a valid hire agreement.*

Liability cannot be transferred to someone who has temporary care of your vehicle (i.e. a garage).

The penalty exceeded the amount applicable in the circumstances of the case.

*The Council may **accept** your representations if the Penalty Charge Notice or the Notice to Owner showed the incorrect amount of charge, for instance a higher level charge is shown when the contravention should be a lower level charge.*

*The Council may **reject** your representation if the Penalty Charge Notice or Notice to Owner showed the correct amount of charge.*

There has been a procedural impropriety on behalf of the enforcement authority.

*The Council may **accept** your representations if evidence is presented which proves that procedural impropriety has occurred.*

*The Council may **reject** your representations if no evidence is provided that a procedural impropriety has occurred.*

The Order which is alleged to have been contravened in relation to the vehicle concerned is invalid.

*The Council may **accept** your representations if you can show that the Traffic Regulation Order was not made correctly or not consulted upon properly. Please supply evidence as to why you believe this to be the case.*

*The Council may **reject** your representation if the Traffic Order has been created correctly and is valid for the place where you have parked.*

*The Council may also **accept** your representations if it is found that the signage or markings on street are not in accordance with the relevant Traffic Order.*

The Notice 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.

*The Council may **accept** your representations if you provide evidence to prove that the appropriate payment was made at the appropriate time. We may ask you to provide evidence from your bank.*

*The Council may **reject** your representations if you cannot provide evidence to prove that payment was made to the Council at the appropriate amount and the appropriate rate.*