



PARKING ENFORCEMENT POLICY AND GUIDANCE

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1. Introduction

Test Valley Borough Council manages and enforces its own public car parks. Until 1st April 2020, the Council was also responsible for the enforcement of on-street parking restrictions in the Borough on behalf of Hampshire County Council, under an Agency agreement. However, from 1st April 2020, the enforcement of on-street parking restrictions reverted back to the County Council.

The purpose of this document is to inform the public of the Council's policies and procedures for the enforcement of the off-street parking restrictions in force within the Borough. The emphasis is on transparency and on the provision of information for car park 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 (CEO's) 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 Notice is discounted by 50% if paid within 14 days. The charge increases by 50% if, after being served a Notice to Owner, either 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 powers allow the Council to 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 contraventions and £50 for Lower level contraventions. 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 Local Authorities 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.** For parking penalty charge notices issued prior to 31st May 2022 :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). For parking penalty charge notices issued on or after 31st May 2022: The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022

and The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022 govern the management and conduct of parking appeals in England and Wales (outside London).

- **Signs and Lines.** The Traffic Signs Regulations and General Directions set out how highway signs and lines should be laid out so that on-street parking restrictions are clear. These regulations do not apply to signage and lines in Off Street Car Parks, though the civil parking enforcement authority have a responsibility to ensure that car park signs and lines informing motorists about the parking rules can be clearly understood by car park users.

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 <https://www.testvalley.gov.uk/aboutyourcouncil/corporatedirection>

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

- To manage the use of our off-street parking facilities to maintain access and minimise the environmental impact of traffic.
- 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 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)

OFF STREET CONTRAVENTIONS

Code and level	Description	Suggested Evidence/ Observation	Operational Considerations
70 Higher	Parked in a loading area during restricted hours without reasonable excuse	<ul style="list-style-type: none">• Bay markings and/or sign plates.• Observation to establish loading. Verify whether place restricted to commercial vehicles or all loading.• Photo to show position of vehicle in relation to signing.	Unless vehicle is not of the designated category (where a PCN can be issued instantly) observe for minimum of 10 minutes for loading. CEO to exercise discretion for longer observation period for commercial vehicles as appropriate. There is no exemption for disabled badge holders.

Code and level	Description	Suggested Evidence/ Observation	Operational Considerations
71 Higher	Parked in an electric vehicles' charging place during restricted hours without charging	<ul style="list-style-type: none"> • Observation to verify that vehicle is connected to the electric charging station. • Photo to show vehicle not connected. 	Allow 10 minutes before issuing PCN in line with Code 83, as driver may have left vehicle unattended to go and purchase pay and display ticket. There is no exemption for loading.
73 Lower	Parked without payment of the parking charge	<ul style="list-style-type: none"> • Confirmation of searching windscreen & vehicle interior, check RingGo and POPP before PCN issue. • Check car park signing as regards requirement to pay, tariffs and contraventions • Record details of any tickets / permits / blue badge which are on display, noting down if any are obscured. 	Allow 10 minutes before issuing PCN. There is no exemption for loading.
74 Higher	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited.	<ul style="list-style-type: none"> • Photographs which evidence that the vehicle is being used for selling or advertising goods • Handheld notes confirming any evidence 	If the advertising is by way of custom paint/wrap, but vehicle has paid to park, and no other means of advertising, then PCN will not be issued. If however it is for example a show-trailer unit attached to the car, or car has a leaflet dispenser attached to it etc. instant PCN to be issued, irrespective of it has paid to park.
80 Lower	Parked for longer than permitted	<ul style="list-style-type: none"> • Check car park lining and signing as regards tariffs & contraventions etc.. • Record details of all P&D tickets on display, expired and current & all relevant Ringgo sessions. • Log time of first and final observation 	Allow 10 minutes before issuing PCN. In designated EVCP bays, vehicles may exceed maximum stay outside of car park charging hours (for example to allow them to charge overnight)

Code and level	Description	Suggested Evidence/ Observation	Operational Considerations
81 Higher	Parked in a restricted area in a car park	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc.. • Photos from distance to show area of restriction. 	<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> <p>Princes Road hatched area for library loading- max 1 hour whilst displaying valid permit.</p>
82 Lower	Parked after the expiry of paid for time	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Record details of all P&D tickets on display, expired and current & all relevant Ringgo or POPP sessions. • 	<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 re-apply.</p>
83 Lower	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Confirmation of searching windscreen & vehicle interior, Ringgo & POPP checked, before PCN issue. • Record details of tickets/ permits/ Blue Badges displayed, particularly if face down or partially covered. • 	<p>Allow 10 minutes before issuing PCN.</p> <p>There is no exemption for loading.</p>
84 Lower	Parked with payment made to extend the stay beyond initial time	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Observation/Evidence that vehicle returned before 'no return' period expired. • Record details of all P&D tickets on display, expired and current & all relevant Ringgo or POPP sessions. 	<p>Allow 10 minutes from time of expiry of initial P&D ticket before issuing PCN.</p> <p>Drivers can re-park after expiry of no-return period- if so, grace period would reapply.</p>

Code and level	Description	Suggested Evidence/ Observation	Operational Considerations
85 Higher	Parked in a permit bay without clearly displaying a valid permit	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Note details of permits/ tickets, if any displayed. • Photo to show position of vehicle in relation to signing. • Check permit has not been listed as lost or stolen & report any suspected fraud or misuse of permit to admin team. 	<p>Allow 10 minutes for motorist to get visitor permit / shared Season ticket before issuing PCN. **exception Eastfield Road Season Ticket Car Park, re persistent issues with abuse of spaces by parents parking at school pick up / drop off time – instant PCN can be issued **</p> <p>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>
86 Lower	Not parked correctly within the markings of a bay or space	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Diagram to show vehicle position. • Photographs to show position of vehicle in relation to parking bay/ aisle. 	<p>Instant PCN At least one wheel should be outside bay/ space.</p>
87 Higher	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Confirmation windscreen searched before PCN issue. Note details of tickets/ permits displayed (e.g. expired/ faded / partially obscured badges). 	<p>Instant PCN There is no exemption for loading.</p>
89 Higher	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Evidence of height &/or weight. • Photograph of vehicle 	<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.</p>

Code and level	Description	Suggested Evidence/ Observation	Operational Considerations
90 Lower	Re-parked in the same car park within one hour (or other specified time) of leaving	<ul style="list-style-type: none"> Car park lining and signing as regards tariffs & contraventions etc. Evidence that vehicle reparked, or did not move for 'no return' period. 	Instant PCN
91 Higher	Parked in a car park or area not designated for that class of vehicle	<ul style="list-style-type: none"> Car park lining and signing as regards tariffs & contraventions etc. Evidence that vehicle is not of the permitted class. 	<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>
92 Higher	Parked causing an obstruction	<ul style="list-style-type: none"> Car park lining and signing as regards tariffs & contraventions etc. Evidence of obstruction, full diagram made or Photographs to show position of vehicle in relation to parking bay/ aisle. <p>**This contravention may be covered within 86 above.</p>	<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> <p>The term 'obstruction' is not legally defined and is capable of subjective opinion. The CEO should indicate the effect that the parking of the vehicle had (or could have had) on other users of the car park, including those on foot.</p>
93 Lower	Parked in car park when closed	<ul style="list-style-type: none"> Car park lining and signing as regards tariffs & contraventions etc. Prohibition may only apply on specific or special days/ dates (e.g. Market days). If a temporary closure - Check that the closure is in force and has been correctly signed. Photo to show position of vehicle in relation to signing. 	<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 and level	Description	Suggested Evidence/ Observation	Operational Considerations
94 Lower	Parked in a pay & display car park without clearly displaying two (or other number) valid pay and display tickets when required	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Confirmation windscreen searched before PCN issued. Note details of any tickets displayed. • Photos of vehicle & trailer from distance. 	Instant PCN. There is no exemption for loading. Trailer must be attached to the vehicle, and parked end to end within 2 bays.
95 Lower	Parked in a parking place for a purpose other than that designated	<ul style="list-style-type: none"> • Observe vehicle for, and note on handheld any evidence that vehicle is not complying with 'designated purpose' of parking area. • Lining or signing 	Instant PCN. Vehicles in the 'drop-off only' area in Rapids carpark must not be left unattended whilst passengers are being dropped off.
96 Lower	Parked with engine running when prohibited	<ul style="list-style-type: none"> • Car park lining and signing as regards tariffs & contraventions etc. • Photo of vehicle 	Instant PCN There is no exemption for loading There is no exemption for disabled badge holders. There is no exemption for picking up / dropping off passengers.

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. The reverse of the penalty charge notice gives full instructions. 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 legal 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. 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 Tribunal's 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. At this time the charge will increase by 50% to either £75 or £105 (depending if lower or higher level contravention).
14. If the outstanding charge is not paid within 21 days the Council will apply to the Court (Traffic Enforcement Centre) to register the debt. The Court will charge £9 for this and this fee is added to the amount above. An Order for Recovery of unpaid Penalty Charge will be sent to the registered keeper/hirer 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 recovery of 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 may instruct the Council to remove the surcharge and reissue the Notice to Owner (see paragraph 6). 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 nine 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 S9 and the other grounds or mitigating circumstances are covered under S10:

Statutory ground 1. The alleged contravention did not occur:

S1.1 Where the motorist claims he/she was loading/unloading	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>In a designated loading bay/area, if evidence is available or provided to show:</p> <ul style="list-style-type: none"> • 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. • Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity). • If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc. • 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. 	<ul style="list-style-type: none"> • On restrictions banning loading and unloading or where loading is specified for a particular class of vehicle (i.e. Goods vehicles loading only) • In car park general parking bays if a valid pay & display ticket was not purchased first

S1.2 Where the motorist claims that a parking pay & display machine was faulty	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • If there was another ticket machine nearby that was working correctly at the time. • If there is no record of the machine being faulty or taken out of service. • If there is 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	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • If signs and/or markings are missing or if signs and markings are inconsistent with each other and/or Traffic Order or Legislation 	<ul style="list-style-type: none"> • If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order. • 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	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • If the evidence presented does not support the claim or is inconclusive. • If suitable permitted parking available nearby.

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)	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • 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. • If the keeper can prove that the Notice was not received by post (incorrect postal address). 	<ul style="list-style-type: none"> • 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. • If the postal address is correct and the Notice was served by post within the statutory time period. <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>

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	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • 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). **Report suspected fraud to Police.** 	<ul style="list-style-type: none"> • If the evidence presented does not support the claim or is inconclusive

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

S1.8 Where the motorist claims that a pay & display ticket was purchased and displayed**MAY ACCEPT REPRESENTATIONS**

- If a Pay & 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.

MAY REJECT REPRESENTATIONS

- If the motorist is unable to produce a valid pay & display ticket.
- If the CEO's notes or photos do not confirm that there was a face down ticket or a partially concealed ticket on display.
- If the motorist has made a similar representation before and had a previous PCN cancelled.
- If the CEO observed and recorded that the motorist obtained their ticket from another motorist in the car park.

S1.9 Where the motorist claims that a Pay by Phone parking period was purchased**MAY ACCEPT REPRESENTATIONS**

- If the Pay by Phone records can be validated and show that the PCN was issued after the motorist made the transaction.
- If there was an error in registering or selecting the vehicle VRN or parking location and it is the first contravention of this kind.
- If there is evidence of a communication breakdown with either the customer's mobile phone network or the system provider.

MAY REJECT REPRESENTATIONS

- If the motorist has made a similar representation for a VRN or location error and had a previous PCN cancelled.

Statutory ground 2. The Owner/Keeper 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	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • 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 • 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. 	<ul style="list-style-type: none"> • 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. • 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.

S2.2 Where the current registered keeper claims that the vehicle was purchased after the contravention occurred	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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. • 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.

S2.3 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	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> • Only when a hire agreement exists (see statutory ground 6, below). 	<ul style="list-style-type: none"> • 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.

S2.4 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 3. The vehicle had been taken without owner's consent**S3.1 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.

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)**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 4. The owner is a hire company and has supplied the name of the hirer

S4.1 Where the owner is a hire company and have supplied the name of the hirer	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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. 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. If the vehicle was being driven as a courtesy car without an agreement signed to accept responsibility for PCN's issued.

Statutory ground 5. The penalty exceeded the relevant amount

S5.1 Where the motorist claims the penalty exceeded the relevant amount	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If the PCN and/or Notice to Owner showed the incorrect amount of Penalty Charge, i.e. the wrong Penalty Charge band. System error – check document merge codes 	<ul style="list-style-type: none"> If the PCN or Notice to Owner showed the correct amount of Penalty Charge.

Statutory ground 6. There has been a procedural impropriety on the part of the enforcement authority.

S6.1 That there has been a procedural impropriety on the part of the enforcement authority.	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> Where there is no evidence that the enforcement authority has acted outside of the Legislation and or regulations.

Statutory ground 7. The Traffic Order which is alleged to have been contravened in relation to the vehicle concerned was invalid

S7.1 Where the motorist claims the Traffic Order was invalid	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was not made correctly. 	<ul style="list-style-type: none"> If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was constructed and made correctly <p>Supply appellant with evidence of correct procedure etc.</p>

Statutory ground 8. The Penalty Charge Notice was served by post (Regulation 10 PCN) on the basis that the CEO was prevented from issuing it to the vehicle or handing it to the owner or person in charge; but this is disputed

S8.1 Where the motorist claims the PCN was <u>not</u> prevented from being issued	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If the CEO report and evidence support the representation and an error has been made 	<p>Were the CEO report and evidence indicate that the CEO was prevented from issuing the PCN.</p>

Statutory ground 9. 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 by the applicable date as specified in the 2007 or 2022 Regulations (whichever applies based upon date of contravention).

S9.1 The Notice should not have been served because the penalty charge had already been paid in full or at the discounted rate	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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 after the Notice was served.

Statutory ground 10. Any other information that the motorist / vehicle owner want the Council to take into consideration

S10. 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.

S10.1 Where the motorist claims to have become unwell while driving or whilst parked

MAY ACCEPT REPRESENTATIONS

- If evidence is provided of a medical condition, temporary or permanent, that is consistent with the conditions described.
- Or when the notes made by the CEO support the motorist's representations (e.g. driver returned & was using crutches or heavily pregnant).

MAY REJECT REPRESENTATIONS

- If evidence proof of a medical condition, temporary or permanent, consistent with the conditions described is not provided.
- Or where other evidence contradicts the motorist's claims (e.g. the officer's notes say the driver returned carrying bags of shopping & no sign of incapacity).

S10.2 Where the motorist stopped to use the toilet

MAY ACCEPT REPRESENTATIONS

- Provision of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation.
- 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.

MAY REJECT REPRESENTATIONS

- Where other evidence contradicts the motorist's claims (e.g. the officer's notes say the driver returned carrying bags of shopping & or no sign of child).
- If the motorist has made a similar representation before and had a previous PCN cancelled (unless this is due to a medical condition).

S10.3 Where the motorist stopped to collect (prescribed) medication from a chemist

MAY ACCEPT REPRESENTATIONS

- Only in exceptional circumstances and the use of a permitted parking place would have caused an unacceptable delay.

MAY REJECT REPRESENTATIONS

- In any lesser circumstances.

S10.4 Where the motorist was a patient visiting a doctor's surgery	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> If the motorist was not the patient but only driving the vehicle carrying the patient If the motorist was attending a pre-arranged, non-urgent appointment. If the motorist could reasonably have been expected to parked legally elsewhere.

S10.5 Where the motorist claims a recent bereavement	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If no evidence exists to the contrary, taking into account the sensitivity of this issue and it is their first appeal of this kind. 	<ul style="list-style-type: none"> Only if there is a significant reason to doubt the sincerity of representations, e.g. previous appeal on similar grounds & no evidence supplied.

S10.6 Where motorist stopped to answer mobile phone	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> In no circumstances 	<ul style="list-style-type: none"> On all occasions

S10.7 Where the motorist was delayed in returning to their vehicle and parking time purchased had expired	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> Submission of evidence that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional. If motorist's vehicle had broken down, subject to concurrence with policy S9.9 below. If the motorist was unable to drive, since parking the vehicle. The motorist had been detained by the Police see Statutory ground S9.12. 	<ul style="list-style-type: none"> If the delay was entirely avoidable, i.e. queuing in a shop. 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. A grace period of 10 minutes is given before PCNs are issued in these circumstances.

S10.8 Where the motorist claims that their vehicle had broken down	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If evidence of a breakdown is provided, i.e. proof of vehicle recovery or a bill of sale for repair or parts. 	<ul style="list-style-type: none"> If the motorist is unable to provide evidence that their vehicle had broken down. If vehicle was not removed within a reasonable time. If the CEO's notes contradict the circumstances described e.g. car bonnet still hot or notes of contradictory conversation with driver.

S10.9 Where the motorist claims that they were attending an emergency or another vehicle that had broken down	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<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"> If the motorist is unable to provide evidence that they were attending an emergency or another vehicle which had broken down If the CEO's notes contradict the circumstances described e.g. no evidence of another vehicle or notes of contradictory conversation with driver

S10.10 Where the motorist states they were in police custody when PCN issued	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 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. 	<ul style="list-style-type: none"> If no proof provided that vehicle may have been legally parked before arrest. If the motorist had been detained and charged by the police since parking due to excess alcohol in the body.

S10.11 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	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> In no circumstances 	<ul style="list-style-type: none"> If the motorist overstays initial period of time purchased or returns within a period of 'No return'.

S10.12 Where the motorist left the vehicle parked without a valid ticket on display to obtain change.	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
If the motorist has provided a ticket or evidence that a valid cashless parking session was purchased within the observation period of 10 minutes.	<ul style="list-style-type: none"> 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. If the motorist provides a ticket purchased after the 10 minute observation period. <p>If the CEO observed and recorded that the motorist obtained their ticket from another motorist in the car park.</p>

S10.13 Where the motorist claims to have been unaware of charges or restrictions in the car park.	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
If information on restrictions on tariff boards are incorrect or missing	In all other circumstances

S10.14 Where the motorist claims to have put money into the wrong ticket machine	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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	

S10.15 Where the motorist claims to have paid on Ringgo for the wrong car park or vehicle registration	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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.

S10.16 Where the motorist claims to have been unaware of recent changes in tariff	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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)	

S10.17 Where the motorist assumed that they were entitled to “a period of grace” before the PCN was issued	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
In no circumstances.	In all circumstances.

S10.18 Where motorist states they were unaware of enforcement on Bank/Public holidays, Sundays or evenings	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
In no circumstances	In all circumstances.

S10.19 Where the motorist had parked with one or more wheels outside of a marked bay in a car park	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> Where the bay markings are unclear i.e. faded or snow or leaves were covering the bay markings. Where a Blue Badge Holder (passenger or driver) requires extra room to access the vehicle and it is the first appeal of this kind. 	<ul style="list-style-type: none"> When supporting evidence (photographs & CEO notes) show bay markings were distinct. If the motorist has made a similar representation before and had a previous PCN cancelled.

S10.20 Where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> When supporting evidence (photographs & CEO notes) show restriction signs & 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.

S10.21 Where the motorist claims to have been unaware of a temporary parking restriction or special event restriction	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> 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.

S10.22 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	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If evidence provided that they hold a valid blue badge or were transporting a blue badge holder. 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. Or on receipt of doctors or social services letter outlining compelling reasons due to mental or physical capabilities of the blue badge holder. 	<ul style="list-style-type: none"> If the motorist has previously been advised to display a valid badge /time clock correctly. 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. If the motorist has made a similar representation before and had a previous PCN cancelled.

S10.23 Where the motorist was displaying an expired authorisation to park, i.e. waiver, season ticket, residents permit or visitors permit	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If the renewal of the authorisation was delayed by the Council's administrative processes. 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). 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. 	<ul style="list-style-type: none"> 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?. If the motorist has previously had a PCN cancelled under similar circumstances.

S10.24 Where a Council officer or Member parked in contravention and claims to have been on Council business	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If the officer was carrying out emergency work. 	<ul style="list-style-type: none"> If it can be established that the officer/Member could have reasonably parked elsewhere or obtained a parking permit.

S10.25 Where the motorist claims they were attending a funeral	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If no evidence exists to the contrary, taking into account the sensitivity of this issue. 	<ul style="list-style-type: none"> Only if there is a significant reason to doubt the sincerity of the representations. If the motorist was not parked in a permitted parking place.

S10.26 Where the motorist says they had stopped to drop someone off	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If the time stopped was consistent with the time required to drop someone off and this activity was not prohibited. If, in exceptional circumstances and subject to observations times, the motorist had to escort a passenger child, elderly or disabled person. 	<ul style="list-style-type: none"> If the motorist could reasonably have been expected to parked legally elsewhere.

S10.27 Where the motorist claims to be a doctor, nurse, health visitor attending a patient	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> 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. 	<ul style="list-style-type: none"> If motorist was not attending a patient in urgent circumstances or if there were alternative legal parking spaces available 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. not near to patient's location. If the motorist could reasonably have been expected to parked legally elsewhere.

S10.28 Where the vehicle in question was on police, fire brigade or ambulance duties	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If a senior officer of the service advises in writing that the vehicle was engaged on operational activities. 	<ul style="list-style-type: none"> In all other circumstances

S10.29 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	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> In no circumstances 	<ul style="list-style-type: none"> On all occasions

S10.30 Where the registered keeper liable for payment of the PCN is said to have died	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> Where the circumstances can be confirmed (by sensitive enquiry). 	<ul style="list-style-type: none"> Only if there is evidence to doubt the sincerity of the representations.

S10.31 Where the motorist states that the restriction was marked after the vehicle had been parked	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If records confirm that signing/lining/ placement of cones or suspension notices was likely to have taken place after the vehicle parked. 	<ul style="list-style-type: none"> If there is evidence to show that markings were already in place at the time of parking.

S10.32 Where the vehicle driven by the motorist is diplomatically registered	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle. <p>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.</p>	<ul style="list-style-type: none"> In no circumstances

S10.33 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

MAY ACCEPT REPRESENTATIONS

- 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.
- If a previous PCN was served on the same date for the same contravention in the same location.

MAY REJECT REPRESENTATIONS

- In all other circumstances

S10.34 Where the motorist claims there was no legal place to park

MAY ACCEPT REPRESENTATIONS

- Only in the most exceptional of circumstances with evidence to support the exceptional circumstances that has not been considered before.

MAY REJECT REPRESENTATIONS

- In the absence of exceptional circumstances

S10.35 Where the motorist claims they were parked on private property

MAY ACCEPT REPRESENTATIONS

- If land search maps confirm location is private property & not subject of the relevant Traffic Regulation Order.
- If there is insufficient evidence to establish the precise location of vehicle.

MAY REJECT REPRESENTATIONS

- In all other circumstances.

S10.36 Where the motorist had parked while asking directions / opening gates to private property

MAY ACCEPT REPRESENTATIONS

- If evidence provided by the CEO does not contradict representations.

MAY REJECT REPRESENTATIONS

- If the CEO's pocket book notes contradict the submission.
- If the motorist was parked in an area which does not correspond with claims made in representations.
- If the motorist could reasonably have been expected to parked legally elsewhere.

S10.37 Where the motorist states that the details on the PCN are incorrect, e.g. location or make of vehicle	
MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<ul style="list-style-type: none"> If there is reason to doubt that the PCN was issued correctly, or registration number recorded incorrectly. <p>Check the vehicle number plates & location in the photos & officer notes.</p>	<ul style="list-style-type: none"> If the PCN was fully and correctly completed. <p>**Vehicle colour and make are not legally required, and subject to CEO error if no badges or poor light. These do not invalidate the charge notice.</p>

7. Frequently Asked Questions

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

- by Debit card online at: www.testvalley.gov.uk/penaltycharge
- By Debit Card by telephoning our 24-hour automated payment service by calling **0845 6001586**. Please press option 5 – Penalty Charge Notice. Please note that your network provider may charge you for connecting to this service. If you experience any difficulties in making your payment please telephone Customer Services on 01264 368000 during office hours : 8.30am to 5pm Monday to Thursday, 8.30am to 4.30pm Friday (excluding Bank Holidays and the Christmas/New Year Period)
- By post with a Cheque (please do not send cash by post). Please send your cheque payable to Test Valley Borough Council, to the address on the reverse of the Penalty Charge Notice: Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, SP10 3AJ. Please write the PCN number on the reverse of the cheque 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 14th day to ensure the payment has reached us in time.
- Visit the Council offices in Andover or Romsey during office hours to pay by Debit card or cheque. 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 payable 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 www.testvalley.gov.uk/penaltycharge , by email to 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 may 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.

If we have your written consent to liaise with a third party, 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 penalty charge levels are laid out in the legislation; the Council does not set the amount of the charge

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 may 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 where possible 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. You can also view the photographs taken at the time of the contravention by visiting www.testvalley.gov.uk/penaltycharge

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.

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 a Charge Certificate 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 Independent Adjudication Service?

The Traffic Penalty Tribunal comprises individually appointed independent adjudicators who consider appeals against Penalty Charge Notices (PCNs) issued by the majority of councils in England and Wales (outside London) for parking contraventions. The Adjudicators are appointed by the Joint Committee of local authorities and all appointments have to be approved by the Lord Chancellor. 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, and the Council 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 £8 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. Councils 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.. If this letter is 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

Date	Section	Amendment	Notes	Head of Service Signature
7.6.2019	Section 4 Pages 6-15	Contravention Descriptions updated in accordance with changes to the National Contravention Codes.	Codes: 12,16,21, 25,27,40, 45,48,82, 83,84,85, 86,87,89, 90	
7.6.2019	Section 4 Pages 6-15	Additional Contravention Codes added to reflect additional contraventions now relevant in the Borough.	Codes: 19,28,71, 73,95	
7.6.2019	Section 4 Pages 6-15	Additions to operational considerations/guidance re: <ul style="list-style-type: none"> • Loading prohibition in pedestrian zones, • Princes Road Car Park hatchings, • Eastfield Road Season Ticket Car Park Instant PCN's • Rapids 'drop off' point 	Codes: 02, 81, 85, 95	
7.6.19	Section 7 Page 37 Pages 37, 38, 41	Addition to methods of payment to include Automated telephone payment system Amendment to web-link to appeal, view photos or pay		
15.5.20	Section 1: Page 3 Section 3: Page 5 Section 4: Page 7-12 Section 6: Page 20-39	Following hand-back of on-street enforcement function to County Council from 1.4.2020, removal of all references to On-Street enforcement, contravention codes and grounds for appeal	Removal of Codes: 01,02,12, 16,19,21, 22,23,24, 25,26,27, 28,30,40, 45,46,47, 48,49,61, 99	

15.5.20	Section 4: Page 12 - 17	Contravention Descriptions added/wording updated in accordance with the legislation	Codes: 70, 74 85, 87, 89, 94, 96	
15.5.20	Section 4: Page 12 - 17	<p>Additions to operational considerations/guidance re:</p> <ul style="list-style-type: none"> • Vehicles advertising or selling goods • Parking of trailers in car parks • Enforcement of Max Stay for EVCPs outside charging hours 	Code:74, 80 and 94	
22.4.22	Section 2: Page 4-5	Update to include the new 2022 Regulations which apply to PCNs issued from 31 st May 2022		
22.4.22	Section 5: Page 14	Amendment to Court Fee		
22.4.22	<p>Section 6: Page 21</p> <p>Section 6: Pages 14-31</p> <p>Section 6: Page 21</p>	<p>Addition of Statutory Appeal Ground :</p> <p>The Penalty Charge was served by post (Regulation 10 PCN) on the basis that the CEO was prevented from issuing it to the vehicle or handing it to the owner or person in charge; but this is disputed</p> <p>Re-Ordering of Statutory Appeals Grounds to match the order of appeal grounds within the 2022 Regulations</p> <p>Statutory Ground 9 – The penalty charge had already been paid – Reference to 2022 Regs added</p>		