



SOUTH EAST PARKING MANAGERS GROUP

CIVIL PARKING ENFORCEMENT

Guidelines for the consideration of challenges
against Penalty Charge Notices

Policies set out in this document
provide guidance only.

Each case must be considered on its
own merits, taking into account the
exceptionality of the circumstances



INDEX

Page No

INTRODUCTION	i
STANDARD CONTRAVENTION CODES, PENALTY CHARGE LEVEL & OBSERVATION TIMES.....	ii
STATUTORY GROUNDS TO MAKE REPRESENTATIONS The Traffic Management Act 2004; Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007	5
S1 The contravention did not occur:	5
S1.1 where the motorist claims he/she was loading/unloading.....	5
S1.2 where the motorist claims that a pay & display ticket machine was faulty	6
S1.3 where the motorist claims that the restriction is not clearly signed or marked	7
S1.4 where motorist was carrying out construction or demolition works etc.	8
S1.5 where the motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver).....	9
S1.6 where the motorist claims that their vehicle was not parked in the alleged location at the time and on the date the PCN was issued.....	10
S1.7 where the motorist claims that a valid authorisation to park, had been issued.....	11
S1.8 where the motorist claims that a pay & display ticket was purchased and correctly displayed	12
S2 The recipient never was the owner/keeper of the vehicle in question or:	13
S3 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.....	14
S 4. That the recipient is a vehicle-hire firm and:.....	15
S5. That the penalty charge exceeded the amount applicable in the circumstances of the case.	16
S 6. That there has been a procedural impropriety on the part of the enforcement authority.	17
S7 (1) That the Order which is alleged to have been contravened in relation to the vehicle concerned is invalid.	18
S8. Any other information that the motorist / vehicle owner wants the Council to take into consideration.....	19
MITIGATING CIRCUMSTANCES.....	20
MC1 where the motorist claims to have become unwell while driving.....	20
MC2 where the motorist claims to be a doctor, nurse, health visitor attending a patient.....	21
MC3 where the motorist stopped to use the toilet	22

MC4	where the motorist stopped to collect (prescribed) medication from a chemist	23
MC5	where the motorist was a patient visiting a doctor's surgery.....	24
MC6	where the motorist claims to have been recently bereaved	25
MC7	where the motorist was delayed in returning to their vehicle and parking time purchased had expired.....	26
MC8	where the motorist "fed" a meter or pay & display machine by buying subsequent time to park in the same place or returned to the same place within a specified and prohibited time period	27
MC9	where the motorist left the vehicle parked without a valid ticket on display to obtain change.....	28
MC10	where the motorist claims to have been unaware of the parking charge payable or of the restriction/prohibitions applicable to vehicles of a certain class or weight.	29
MC11	where the motorist claims to have been unaware of recent rise in tariff.....	30
MC12	where the motorist had parked with one or more wheels outside of a marked parking bay in a car park.....	31
MC13	where the motorist is a current Blue Badge holder / transporting a current Blue Badge holder and they did not have their Blue Badge and / or clock on display or could not be read or had expired.....	32
MC14	where the motorist claims to have been unaware of the existence of a Controlled Parking Zone	33
MC15	where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents' permit, business permit or visitors permit	34
MC16	where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a residents' visitor permit.....	35
MC17	where the motorist is a new resident within a controlled parking zone and had parked in a residents' bay without displaying a valid residents' permit.....	36
MC18	where the motorist had parked incorrectly in a controlled bay on-street.....	37
MC19	where the motorist assumed that they were entitled to "a period of grace" before the PCN was issued.....	38
MC20	where the motorist claims they were attending a funeral	39
MC21	where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings	40
MC22	where the motorist claims that their vehicle had broken down.....	41
MC23	where the motorist claims that they were attending an emergency or another vehicle that had broken down.....	42
MC24	where the motorist claims to have put money into the wrong ticket machine	43
MC25	where the vehicle in question was on police, fire brigade or ambulance duties.....	44

MC26	where the motorist claims to have been collecting or depositing monies at a bank.....	45
MC27	where the motorist claims to have been unaware of a temporary parking restriction or special event restriction.....	46
MC28	where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time, e.g. is living abroad or is in prison	47
MC29	where the registered keeper liable for payment of the PCN is said to have died.....	48
MC30	where the vehicle driven by the motorist is diplomatically registered	49
MC31	where the motorist received a Fixed Penalty Notice (FPN) from a police officer or traffic warden when parked in the same location	50
MC32	where a Council officer or Member parked in contravention and claims to have been on Council business	51
MC33	where the motorist stopped to drop off someone	52
MC34	where motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction.....	53
MC35	where motorist states they were in police custody when PCN issued	54
MC36	where motorist states they were visiting a friend or relative in urgent circumstances.....	55
MC37	where motorist claims there was no legal place to park.....	56
MC38	where motorist claims they were parked on private property	57
MC39	where motorist was delayed in returning to their vehicle parked in a limited waiting parking place	58
MC40	where motorist had parked while asking directions / opening gates to private property.....	59
MC41	where motorist stopped to answer mobile phone	60
MC42	where motorist states that the details on the PCN are incorrect, e.g. location.....	61
MC43	where motorist states they were unaware of enforcement on Bank/Public holidays	62
MC44	where motorist states that restriction was marked after the vehicle had been parked	63
	RECORD OF AMENDMENTS.....	64

SOUTH EAST PARKING MANAGERS GROUP

POLICIES FOR THE ENFORCEMENT AND CANCELLATION OF PENALTY CHARGE NOTICES

INTRODUCTION

Parking Managers across Kent and Medway have prepared the following policy guidance in respect of Decriminalised Parking Enforcement. The guidelines in this document are intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations.

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

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

The policies address the following:

Observation times for enforcement staff

The statutory grounds upon which representations may be made

Mitigating circumstances

The acceptance or rejection of representations

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

These policies will be subject to ongoing review.

STANDARD CONTRAVENTION CODES, PENALTY CHARGE LEVEL & OBSERVATION TIMES

(Not all Contravention Codes are used in all Council areas)

Code	Observation Time & Notes	Contravention	Differential Penalty Charge level
01	GV 10 min* PMC 5 min*	Parked in a restricted street during prescribed hours	Higher
02	0 min	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	Higher
04	0 min	Parked in a meter bay when penalty time is indicated	Lower
05	0 min	Parked after the expiry of paid for time at a pay & display bay	Lower
06	0 min**	Parked without clearly displaying a valid pay & display ticket or voucher	Lower
07	0 min	Parked with payment made to extend the stay beyond initial time ('meter feeding')	Lower
08 ?	0 min	Parked at an out-of-order meter during controlled hours	Lower
09 ?	0 min	Parked displaying multiple pay & display tickets where prohibited	Lower
10	0 min	Parked without clearly displaying two valid pay and display tickets when required	Lower
11	0 min	Parked without payment of the parking charge	Lower
12	0 min	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay & display ticket issued for that place	Higher
16	0 min	Parked in a permit space without displaying a valid permit	Higher
18	0 min	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Higher
19	0 min	Parked in a residents' or shared use parking place or zone displaying an invalid permit, invalid voucher or an invalid pay & display ticket.	Lower
20	GV 10 min* PMC 5 min*	Parked in a loading gap marked by a yellow line	Higher
21	0 min	Parked in a suspended bay/space or part of bay/space	Higher
22	0 min	Re-parked in the same parking place within one hour of leaving	Lower
23	0 min	Parked in a parking place or area not designated for that class of vehicle	Higher

Code	Observation Time & Notes	Contravention	Differential Penalty Charge level
24	0 min	Not parked correctly within the markings of the bay or space	Lower
25	GV 10 min* PMC 5 min*	Parked in a loading place during restricted hours without loading	Higher
26	0 min	Vehicle parked more than 50 cm from the kerb and not within a designated parking place	Higher
27	0 min	Parked adjacent to a dropped footway	Higher
30	0 min	Parked for longer than permitted	Lower
35	0 min	Parked in a disc parking place without clearly displaying a valid disc	Lower
36	0 min	Parked in a disc parking place for longer than permitted	Lower
40	0 min	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge.	Higher
41	0 min	Parked in a parking place designated for diplomatic vehicles	Higher
42	0 min	Parked in a parking place designated for police vehicles	Higher
45	0 min	Parked on a taxi rank	Higher
46	0 min	Stopped where prohibited (on a red route or clearway)	Higher
47	0 min	Parked on a restricted bus stop/stand	Higher
48	0 min	Stopped in a restricted area outside a school	Higher
49	0 min	Parked wholly or partly on a cycle track	Higher
55	0 min	A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban	Higher
56	0min	Parked in contravention of a commercial vehicle waiting restriction	Higher
57	0 min	Parked in contravention of a coach ban	Higher
61	0 min	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	Higher
62	0 min	Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking)	Higher
63	0 min	Parked with engine running where prohibited	Lower
99	0 min	Stopped on a pedestrian crossing and/or crossing area marked by zig-zags	Higher
70	GV 10 min* PMC 5 min*	Parked in a loading area during restricted hours without reasonable excuse	Higher

Code	Observation Time & Notes	Contravention	Differential Penalty Charge level
73	0 min	Parked without payment of the parking charge	Lower
74	0 min	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale goods when prohibited	Higher
80	0 min	Parked for longer than the maximum period permitted	Lower
81	0 min	Parked in a restricted area in a car park	Higher
82	0 min	Parked after the expiry of time paid for in a pay & display** car park	Lower
83	0 min	Parked in a pay & display** car park without clearly displaying a valid pay & display ticket	Lower
84	0 min	Parked with additional payment made to extend the stay beyond time first purchased	Lower
85	0 min	Parked in a permit bay without clearly displaying a valid permit	Higher
86	0 min	Parked beyond the bay markings	Lower
87	0 min	Parked in a designated disabled person's parking space without displaying a valid disabled person's badge in the prescribed manner	Higher
89	0 min	Vehicle parked exceeds maximum weight and/or height permitted in the area	Higher
90	0 min	Re-parked within one hour of leaving a bay or space in a car park	Lower
91	0 min	Parked in an area not designated for that class of vehicle	Higher
92	0 min	Parked causing an obstruction	Higher
93	0 min	Parked in car park when closed	Lower
94	0 min	Parked in a pay & display car park without clearly displaying two valid pay and display tickets when required.	Lower
95	0 min	Parked in a parking place for a purpose other than the designated purpose for the parking place	Lower
96	0 min	Parked with engine running where prohibited	Lower

*GV = Goods Vehicle - 10 min observation.

*PMC = Private Motor Car including estate cars – 5 min observation.

An 'instant' PCN may always be issued in circumstances where the Civil Enforcement Officer concerned has evidence, other than a period of observation, which supports the action of issuing the PCN without observing the vehicle for the minimum periods indicated.

** Visitors are not permitted time to obtain change away from the immediate area of the P&D machine or car park. Civil Enforcement Officers should observe queues at ticket machines and/or pedestrians who may be seeking change or returning to the vehicle in question, before issuing a Penalty Charge Notice.

STATUTORY GROUNDS TO MAKE REPRESENTATIONS

The Traffic Management Act 2004; Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S1 The contravention did not occur:	
S1.1 where the motorist claims he/she was loading/unloading	
<p><u>On a waiting prohibition or in a controlled bay:</u></p> <p>If evidence is available or provided to show:</p> <ol style="list-style-type: none"> 1. Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from a 'legal' parking place. 2. Loading/unloading activity was adjacent to the premises concerned, but includes taking goods to where the recipient may reasonably require them in the premises. 3. Loading/unloading must be continuous while the vehicle is parked in the restricted area. 4. Loading/unloading activity was timely (includes checking goods and signing paperwork, but not delayed by unrelated activity). <p>If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc.</p> <p><i>CEO's should be made aware that that delivery drivers/staff are expected to secure their vehicle when it is unattended and can legitimately be locked during some stages of the delivery process.</i></p> <p><i>Once the delivery process is complete the driver must move the vehicle even if it is within the maximum period allowed for loading/unloading</i></p> <p>[Source – DfT Operational Guidance, Traffic Orders, decided cases e.g. Jane Packer Flowers]</p>	<p><u>on school 'keep clear' zig zag markings;</u></p> <p><u>on bus stop clearways;</u></p> <p><u>on Taxi ranks</u></p> <p><u>on Police bays</u></p> <p><u>where loading is prohibited-;</u></p> <p><u>in car parks:</u> (except when depositing materials in recycling bins)</p> <p>If a valid pay & display ticket was not purchased first</p>
<u>NOTES</u>	

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

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

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

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

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

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S2 The recipient never was the owner/keeper of the vehicle in question or:</p> <p>1) Had ceased to be its owner/keeper before the date on which the alleged contravention occurred ;or 2) Became its owner/keeper after that date.</p> <p><i>Where a recipient makes representations under the circumstances above, they are legally obliged to include a statement of the name and address of the person to whom the vehicle was disposed of (or from whom it was acquired, as the case may be), if they have that information.</i></p>	
<p>a) If the DVLA confirm the motorist was not the registered keeper at the time of the contravention</p> <p>b) If the previous registered keeper provides proof that the motorist purchased or acquired the vehicle after the contravention, or the subsequent registered keeper provides proof that the motorist sold or disposed of the vehicle before the contravention.</p>	<p>a) If the DVLA confirm the motorist was the registered keeper at the time of the contravention.</p> <p>b) If the previous registered keeper provides proof that the motorist purchased or acquired the vehicle before the contravention, or the subsequent registered keeper provides proof that the motorist sold or disposed of the vehicle after the contravention.</p> <p>c) 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 S.4)</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S3 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</p> <p><i>This ground for representation covers stolen vehicles and vehicles which were not stolen but which were used without the owner's consent. It may apply in limited circumstances where a vehicle was being used by a member of the owner's family without the owner's consent, such as where the family member has no permission to use the vehicle and has taken the keys without the owner knowledge.</i></p>	
<p>If the registered keeper/owner confirms that the matter has been reported to the police as a crime by providing a valid police crime report reference number.</p>	<p>If the current registered keeper is unable to provide any proof of theft or taking without consent.</p> <p>If the police crime report reference number provided does not exist, it does not match the date of the theft or taking without consent, or the details in the report do not match the date of the contravention.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S 4. That the recipient is a vehicle-hire firm and:</p> <p>The vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and</p> <p>The person hiring it has signed a statement of liability acknowledging his liability in respect of any PCN served in respect of any contravention involving the vehicle</p>	
<p>If the hire company are able to provide proof that the vehicle was hired at the time of the contravention, i.e. a signed agreement.</p> <p>If the hire company are able to provide the full name and address of the person to whom they hired the vehicle.</p> <p>ACTION - send a new Notice to Owner to the person named by the hire agreement. That person is legally deemed to be the owner of the vehicle for the purposes of processing the PCN</p>	<p>If the person named by the hire company as the person to whom they hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention.</p> <p>If the vehicle was being used as a courtesy car without an agreement that had been signed to accept responsibility for Penalty Charge Notices issued.</p> <p>If the hire company are unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom the vehicle was hired.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S5. That the penalty charge exceeded the amount applicable in the circumstances of the case.</p>	
<p>If the PCN and/or Notice to Owner showed the incorrect amount of penalty charge, i.e. the wrong differential penalty charges level.</p> <p><i>See the table of Contraventions on pages ii – iv</i></p>	<p>If the PCN or Notice to Owner showed the correct amount of penalty charge</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
S 6. That there has been a procedural impropriety on the part of the enforcement authority.	
<ol style="list-style-type: none"> 1) Where it is established that the enforcement authority has failed to observe any requirement imposed on it by the Traffic Management Act or Traffic Management Act regulations in relation to the imposition or recovery of a penalty charge or other sums. 2) The taking of any step, whether or not involving the service of a document and the purported service of a Charge Certificate in advance of the time scale set out in the regulations. 3) If a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988, has been given in respect of that conduct, or the conduct constituting the parking contravention in respect of which the Penalty Charge Notice has been given is the subject of criminal proceedings; only likely to be the case on or near pedestrian crossings on or near a pedestrian crossing 	<p>If it is established that:</p> <ol style="list-style-type: none"> 1) All requirements of the Traffic Management Act have been fully and correctly observed by the enforcement authority. 2) That service of all documents has taken place in compliance with relevant time scales. 3) A fixed penalty notice has not been served.
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S7 (1) That the Order which is alleged to have been contravened in relation to the vehicle concerned is invalid.</p> <p>(2) In the case where a PCN was served by post on the basis that a CEO was prevented from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no CEO was so prevented.</p> <p>(3) That the NtO should not have been served because the penalty charge had already been paid in full or by the amount reduced by any discount set within the period set.</p>	
<p>(1) If a relevant Order was found to be invalid. This does not apply to Orders to which Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 applies.</p> <p>(2) If in accord with the Council's policies in connection with the prevention of service of PCN's, it is determined that a CEO was not prevented from fixing the PCN to the vehicle or handing it to the driver.</p> <p>(3) It is established satisfactorily that the penalty charge had been paid.</p>	<p>(1) If a relevant Order was found to be valid.</p> <p>(2) If in accord with the Council's policies in connection with the prevention of service of PCN's, it is determined that a CEO was prevented from fixing the PCN to the vehicle or handing it to the driver.</p> <p>(3) If payment has not been received</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>S8. Any other information that the motorist / vehicle owner wants the Council to take into consideration</p> <p><i>Representations must be made within 28 days of service of the NtO, however, discretion should be exercised when the vehicle owner provides a valid reason for the a delay and has strong ground for representation</i></p>	
<p>The decision whether or not a Penalty Charge Notice should be cancelled, will only be taken following very careful consideration taking into account all of the evidence available.</p> <p>A person who recklessly or knowingly makes a representation to the Council or an adjudicator which is false in a material particular is guilty of an offence for which, on summary conviction, a fine may be imposed.</p>	
<p><u>NOTES</u></p>	

MITIGATING CIRCUMSTANCES

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC2 where the motorist claims to be a doctor, nurse, health visitor attending a patient	
<p>If the motorist concerned possesses a Medical Dispensation badge (BMA, HEBS) that the Council concerned recognises and approves and/or is exempt under the relevant Order.</p> <p>Or</p> <p>If the motorist produces evidence that they were responding to an urgent medical call and there was no nearby legal parking place.</p>	<p>If motorist was not attending a patient in urgent circumstances or if there was a legal parking space nearby.</p> <p>If motorist was parked outside their practice or other place of work for any reason other than to collect supplies for an urgent call</p> <p>If motorist was parked in an area which does not correspond with the claim made, i.e. far from patients location, say, in a car park</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC3 where the motorist stopped to use the toilet	
On production of medical evidence confirming a relevant medical condition and in support of the circumstances described.	In all other circumstances
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC4 where the motorist stopped to collect (prescribed) medication from a chemist	
Only in the most grave, urgent and exceptional of circumstances and the use of a 'legal' parking place would have caused an unacceptable delay.	In any lesser circumstances.
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC5 where the motorist was a patient visiting a doctor's surgery	
<p>If the motorist can provide a letter from a doctor to confirm that the visit was very urgent and that they were unable to walk from the nearest legal parking space.</p>	<p>If the motorist was not the patient but only driving the vehicle carrying the patient</p> <p>If the motorist was attending a pre-arranged, non-urgent appointment.</p> <p>If the motorist could reasonably have been expected to parked legally elsewhere.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC6 where the motorist claims to have been recently bereaved	
<p>If no evidence exists to the contrary, taking into account the sensitivity of this issue on first occasion.</p>	<p>Only if there is a significant reason to doubt the sincerity of representations, i.e. the Civil Enforcement Officer's notes indicating that the motorist was going about a normal day, say, shopping or working, or the bereavement considered to be a long time ago</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC7 where the motorist was delayed in returning to their vehicle and parking time purchased had expired	
<p>If supported by appropriate evidence, the motorist's claims that the delay returning to the vehicle was caused by circumstances that were entirely unforeseeable, unavoidable and exceptional.</p> <p>If motorist's vehicle had broken down, subject to concurrence with policy MC25, below)</p> <p>If the motorist was rendered unable to drive, since parking the vehicle.</p>	<p>If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop.</p> <p>If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or commuting.</p> <p>If the motorist was unable to drive since parking due to excess alcohol / drugs in the body or had been detained and charged or prevented by the police.</p>
<p><u>NOTES</u></p>	

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>MC10 where the motorist claims to have been unaware of the parking charge payable or of the restriction/prohibitions applicable to vehicles of a certain class or weight.</p>	
<p>If signs providing information about the parking charge payable, and the restrictions applicable to vehicles of that class or weight, are incorrect, inadequate or missing all together.</p>	<p>In all other circumstances</p>
<p><u>NOTES</u></p>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC12 where the motorist had parked with one or more wheels outside of a marked parking bay in a car park	
<p>Only in the most exceptional of circumstances that were outside the motorists control and are supported by incontrovertible evidence.</p> <p>otherwise</p> <p>In no circumstances</p>	<p>When clear and incontrovertible supporting evidence (photographs/Sketch plan) is available</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>MC13 where the motorist is a current Blue Badge holder / transporting a current Blue Badge holder and they did not have their Blue Badge and / or clock on display or could not be read or had expired</p>	
<p>If it can be established that this is the motorist's first contravention of this type and they can provide evidence that they are a current Blue badge holder or were transporting a current Blue Badge holder.</p>	<p>If the motorist has previously had a PCN cancelled for the same contravention and has been warned to display a valid badge /time clock, correctly in the future</p> <p>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.</p>
<p><u>NOTES</u></p>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC14 where the motorist claims to have been unaware of the existence of a Controlled Parking Zone	
If it can be established that the signing and markings of the CPZ are at fault (missing and/or unclear) see policy S1.3, above	In all other circumstances
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>MC15 where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents' permit, business permit or visitors permit</p>	
<p>If the renewal of the authorisation was delayed by the Council's administrative processes</p> <p>If it can be established that other reasonably unforeseen circumstances delayed the renewal of an authorisation to park, e.g. sickness on the part of the applicant or a postal dispute/delays (supported by appropriate evidence)</p> <p>In the case of season tickets and residents / business parking permits only, if the authorisation had expired by less than 14 days</p>	<p>In all other circumstances</p> <p>In the event of more than one vehicle registration included on season ticket or permit, subsequent production of the season ticket will not necessarily cause automatic cancellation of the PCN as the season ticket may have been used on the other vehicle</p>
<p><u>NOTES</u></p>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC17 where the motorist is a new resident within a controlled parking zone and had parked in a residents' bay without displaying a valid residents' permit	
In no circumstances	On all occasions
<u>NOTES</u>	

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC18 where the motorist had parked incorrectly in a controlled bay on-street	
<p>If it can be established that the motorist was genuinely loading or unloading, subject to compliance with guidance provided in S1.1, above.</p>	<p>On all occasions</p>
<p><u>NOTES</u></p>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC20 where the motorist claims they were attending a funeral	
If no evidence exists to the contrary, taking into account the sensitivity of this issue.	Only if there is a significant reason to doubt the sincerity of the representations.
<u>NOTES</u>	

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

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

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

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

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

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

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

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC30 where the vehicle driven by the motorist is diplomatically registered	
<p>In all circumstances. <u>A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle</u></p> <p>KCC should be informed of all penalty charges that are not paid by keepers of diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and Commonwealth Office</p> <p>[Source – Secretary of State’s Traffic Management and Parking Guidance, Vienna Convention on Diplomatic Relations, Diplomatic Privileges Act 1964 and Government Report on Review of Vienna Convention...]</p>	<p>In no circumstances</p>
<p><u>NOTES</u></p>	

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC32 where a Council officer or Member parked in contravention and claims to have been on Council business	
<p>If the officer was carrying out emergency or other statutory work and the vehicle could not have been reasonably parked elsewhere.</p>	<p>If it can be established that the officer/Member could have reasonably parked elsewhere.</p>
<p><u>NOTES</u></p>	

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

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

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

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

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

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

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
MC39 where motorist was delayed in returning to their vehicle parked in a limited waiting parking place	
<p>If supported by appropriate evidence, the motorist's representations claim that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional.</p> <p>If motorist's vehicle had broken down, subject to concurrence with policy MC25, above).</p> <p>If the motorist was unable to drive, since parking the vehicle.</p>	<p>If the delay described by the motorist was not exceptional, i.e. queuing in a shop.</p> <p>If the motorist simply underestimated the time needed and could have reasonably purchased more time.</p> <p>If the motorist was unable to drive since parking due to excess alcohol in the body or had been were detained by the police for any reason, unless subsequently released without charge or proven innocent</p>
<p><u>NOTES</u></p>	

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

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

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

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

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

RECORD OF AMENDMENTS

Date	Section	Amendment	Notes
22/12/2008	All	Amendments to ensure compliance with the Traffic management Act 2004	