



Code of Practice on Civil Parking Enforcement

2020 v 1.4

Contents

Part 1 – Introduction - On-street Enforcement Activities

Part 2 - Parking restrictions

Part 3 - Civil Enforcement Officers (CEOs)

Part 4 - Penalty Charge Notices (PCNs)

Part 5 – Notice processing

Glossary of Terms

ATV – Attached to Vehicle

CCTV - Closed Circuit Television

CC - Charge Certificate

CEO - Civil Enforcement Officer

CPE – Controlled Parking Enforcement

CPZ - Controlled Parking Zone

DfT – Department for Transport

DYL - Double Yellow Lines

ECOP – Enforcement Code of Practice

ENF - Enforcement Notice

ETA – Environment and Traffic Adjudicators

FOI - Freedom of Information

HEB - Health Emergency Badge

HGV – Heavy Goods Vehicle

HHC – Hand Held Computer

LBL – London Borough of Lewisham

LLA 1996 - London Local Authorities Act 1996

LLA 2000 - London Local Authorities Act 2000

LLA 2003 - London Local Authorities and Transport for London Act 2003

NtO - Notice to Owner

OfR - Order for Recovery

P&D - Pay & Display

PCN - Penalty Charge Notice

RPZ - Restricted Parking Enforcement

RTA 1991 - Road Traffic Act 1991

SYL - Single Yellow Line

TMA 2004 - Traffic Management Act 2004

TMO - Traffic Management Order

VRM - Vehicle Registration Mark

Part 1 – Introduction - On-street Enforcement Activities

Decriminalised parking enforcement was first introduced in London in 1993 as a result of legislation introduced under the Road Traffic Act (RTA) 1991. This gave the London Borough of Lewisham (LBL) the power to take on responsibility for the enforcement of parking regulations. Part 6 of the Traffic Management Act (TMA) 2004 replaced the RTA 1991 in April 2008 and forms the majority of the current legislation in London. There is other London specific legislation under the various London Local Authorities Acts which are relevant for parking enforcement.

Document Format

This document sets down the parking and moving traffic contravention enforcement protocols within the London Borough of Lewisham. It is primarily intended for use by Civil Enforcement Officers (CEOs) and camera operators.

Through this document LBL seeks to:

- Deliver a high quality parking service to all road users in a fair and consistent manner,
- Ensure there is clarity of the enforcement requirements and policy for all CEOs and officers,
- Be a single point in which enforcement policy is documented and can be updated

Illustrations and Photographs in this Code of Practice

Each main area of enforcement is covered by separate sections - The illustrations and photographs included in this document are examples used for illustrative purposes only, and may not reflect the actual signage or restrictions in place on-street but are intended to promote ease of use of this document. In the case of moving traffic contraventions, the contraventions are not limited to the signs displayed in the document.

Ownership

This document is owned by Parking Services, London Borough of Lewisham.

Updates

Ad hoc changes will be communicated via formal instructions. The instruction will refer to the section of the Enforcement Protocol that is being changed. The full document will be reissued only when appropriate or necessary

Approval Authority

All re-issues must be authorised by the Parking Manager. This copy replaces all previous versions which are now obsolete.

Definitions:

Waiting, Parking and Stopping

Parking contraventions are contraventions of the relevant TMOs. As described in the Road Traffic Regulation Act 1984; parking and waiting are synonymous. Waiting consists of stopping a vehicle where restrictions apply and can be described as occurring 'where the vehicle has been permitted to remain at rest'.

Where drivers are not present, CEOs are not required to locate the driver. Finding and advising a driver to move the vehicle is not practical and is in no way necessary prior to issuing a PCN.

Loading / unloading

This activity needs to be visible and the process (i.e. the delivery/collection and the obtaining of any necessary signature etc.) needs to be continuous in order to satisfy the concessions for loading and unloading. It is only permitted in certain bays and on yellow lines where loading restrictions are not in force.

Private vehicles are only afforded loading/unloading concessions when loading/unloading goods too heavy or bulky to be carried from a legal parking place. The vehicle must be so parked as a matter of necessity rather than mere convenience. This stipulation does not apply to commercial vehicles

Picking up / dropping off passengers – Alighting

The definition of picking up/setting down is stopping at the kerbside in order to allow a passenger/passengers to board or alight the vehicle and to load/unload their luggage. In such cases the vehicle should generally not be left unattended.

Exemptions to this Code of Practice:

Introduction of New Restrictions

Where brand new restrictions or new CPZs are introduced, Warning Notices only will be issued for the first 2 weeks of controls. This may not occur, however, where existing restrictions are merely being enforced by new enforcement methods.

Parking Enforcement by CCTV

The London Borough of Lewisham have a number of areas that they enforce by a fixed camera for a number of different contravention, which includes Bus Lanes, Priority Routes, No Motor vehicles, school zig zag, no left or right turns plus many more.

The information within this ECOP should be used in conjunction with Lewisham's CCTV Code of Practice. The ECOP document specifies the enforcement code protocols CEOs should employ when enforcing parking and moving traffic contraventions on behalf of LBL whereas the CCTV Code of Practice outlines operational procedure and best practice.

Traffic Orders

All restrictions need appropriate legislation or have to be supported by a Traffic Management Order (TMO), which details the prohibition or restriction and the length or part of the road to which it applies.

The restrictions need proper signs and markings which comply with the requirements of the Traffic Signs Regulations and General Directions (unless specially authorised by the DfT) and follow the guidelines and advice provided in the DfT's Traffic Signs Manual. Signs and lines that are significantly different from what is set out in the relevant TMO or legislation might not be enforceable.

The starting point of CPE is having the proper restrictions, adequately indicated by signs and lines, where appropriate. Without this, CEOs will have a difficult task and PCNs should not be issued as they are likely to be invalid.

Maintenance of lines and signs

LBL will pay attention to the need to keep signs and lines in good order and as simple and clear as possible. Regular signs and lines maintenance routine should take place, as well as the CEOs reporting problems with signs and lines as they encounter them.

Controlled Parking Zones



LBL have a number of Controlled Parking zones which operate during the day on Monday to Friday/Saturday. At these times, many spaces are reserved for resident permit holders and visitor permit holders and a number of pay-and-display spaces are provided for visitors to the area, who do not have permits. The precise days and hours when CPZs operate are shown on signs at the entry point into a CPZ. All restrictions within these zones are enforced at the hours of operation as stated on the entry point, unless additional plates are present.

Please see link below for controlled parking zone operating times:-

<https://www.lewisham.gov.uk/myservices/parking/permits/Pages/controlled-parking-zones-operating-times.aspx>

Blue Badge Holders

Blue badge holders are not permitted to park in residents parking bays, however blue badge holders may park in pay and display car parks, on street pay and display bays and time limited parking bays with no time limits and yellow lines with no loading restrictions for up to three hours if displaying the blue badge with the clock set with the time of arrival. Residents who are disabled and living in a CPZ are able to apply for a free residents permit to allow them to park in the residents bays.

Part 2 - Parking restrictions

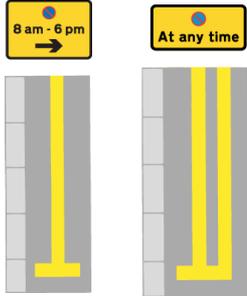
Lewisham Parking



Restricted streets and yellow lines

Contravention code 01 - *Parked in a restricted street during prescribed hours*

Waiting restrictions apply, loading restrictions do not apply – it is not a requirement for double yellow lines to have a restriction plate and the restriction is enforced the hours quoted on the nearby yellow restriction signs or if the yellow line is within a CPZ then the restricted hours of the CPZ as displayed on the entry plates. Suffixes may be used to further describe the restriction.



EXEMPTIONS:

- Dispensation issued by the LBL Suspensions team is displayed giving permission to load/unload for as long as necessary at a particular location.
- Vehicle being used for building demolition, excavation or construction; scaffolding lorries and glaziers carrying out work in or adjacent to street.
- Visible signs of recovery service in attendance of a breakdown.
- Vehicle being used for fire brigade, ambulance or Police purposes.
- The main funeral or wedding vehicle, as well as 2 other family vehicles in the funeral cortege. All other vehicles must park legally

OBSERVATIONS:

- A 2 minute observation should be given to see if there is any evidence of loading / unloading, this will be extended if evidence is seen for passenger vehicles and a 5 minutes observation times will be given for commercial vehicle, which can also be extended.
- There is evidence of loading/unloading bulky or heavy items. For private loading activity, the goods must be too heavy or bulky to be carried from a legal parking place. Take logging then give a minimum of 20 mins casual observation.
- There is evidence of loading / unloading of a commercial vehicle, then take logging, then give a minimum of 40 mins casual observation.

- Evidence of picking up/setting down passengers and their luggage observed. Sufficient time must be allowed for this activity (for as long as necessary). Driver should be with vehicle.

Restricted streets and yellow lines

Pedestrian Zones

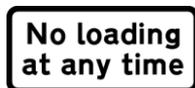
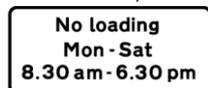
The pedestrian zone signage will show the times when or if vehicular access to the zone is permitted. During these times normal SYL restrictions apply even though the zone will have no yellow line markings. Unless exemption applies, any contravention within the zone should be issued with a **code 01**.

The restricted parking zones (RPZ) signage will show the time of enforcement at the start of the restriction. During these times normal yellow line restrictions apply, even though the area will have no yellow line markings. With this area there may be designated parking and loading areas.



Contravention code 02 – *Waiting and Loading restriction*

Instant PCN, unless the exemptions below apply. Suffixes may be used to further describe the restriction.



EXEMPTIONS:

- Cleansing and refuse vehicles collecting rubbish from the side of the road.
- Vehicles used for Fire Brigade, Ambulance or Police purposes.
- Domestic and office removal vehicles with special permission from the suspensions team.
- Vehicles being used for building demolition, excavation or construction; scaffolding lorries and glaziers carrying out work in or adjacent to street.
- Visible signs of recovery vehicle in attendance.

OBSERVATIONS :

- Evidence of picking up/setting down passengers and their luggage observed. Sufficient time must be allowed for this activity (for as long as necessary). Driver should be with vehicle.

Residents, Business, Shared use Parking Bays



Contravention code 05 - *“Parked after the expiry of paid for time”*

Contravention code 06 - *“Parked without clearly displaying a valid pay and display ticket or voucher”*

Contravention Code 12 - *“Parked in a residents’ or shared use parking place or zone without either clearly displaying a valid permit or voucher or pay and display ticket issued for that place, or without payment of the parking charge”*

Contravention Code 16 – *Parking in a permit space or zone without clearly displaying a valid permit.*

Contravention Code 19 - *“Parked in a residents’ or shared use parking place or zone either displaying an invalid permit or voucher or pay and display ticket, or after the expiry of paid for time”*

Suffixes may be used to further describe the restriction.

EXEMPTIONS:

- Vehicle is displaying any of the following – Valid resident’s, visitors or business parking permit for the appropriate zone and parked in the correctly marked bay.
- Vehicle that have a valid virtual/electronic permit for the appropriate zone and parked in the correctly marked bay.
- Vehicle parked having purchased a virtual parking session.
- Valid Health Z permit or valid Z permit.
- Dispensation issued by the LBL Suspension team is displayed giving permission to load/unload for as long as necessary at a particular location.
- Vehicle being used for building demolition, excavation or construction; scaffolding lorries and glaziers carrying out work in or adjacent to street.
- Visible signs of recovery service in attendance of a breakdown.
- Vehicle being used for fire brigade, ambulance or Police purposes.
- The main funeral vehicle, as well as 2 other family vehicles in the funeral cortege. All other vehicles must park legally.
- Do not issue PCN to any vehicle within the first 10 minutes of the CPZ starting.
- Code 19 – If an expired pay and display ticket or cashless session has expired by 10 minutes this code will be issued.
- However due to most permits and cashless session being virtual if at Code 12 is issued and evidence can be supplied that the permit had expired within 7 days then the reduce rate will be offered.

OBSERVATIONS:

- A 5 minute observation should be given to see if there is any evidence of loading / unloading and to allow time for permits / pay and display to be purchased.
- There is evidence of loading / unloading of a commercial vehicle, then take logging, then give a minimum of 40 mins casual observation.
- Evidence of picking up/setting down passengers and their luggage observed. Sufficient time must be allowed for this activity (for as long as necessary). Driver should be with vehicle.

Pavement Parking

Contravention Code 61 – A heavy *commercial vehicle wholly or partly on a footway, verge or land between two carriageways*

Contravention Code 62 – parked with one or more wheels on or over a footpath or any Suffixed may be used to further describe the restriction.



The footway regulation applies at any time. Footway is defined as any part of an urban road over which the public have right of access on foot and can include private land and vehicle crossovers. There may be bays or plate to indicate where vehicles can park on the footway, however vehicles that are parked outside these permitted areas, may be issued with a PCN. CEOs can and should remove the covers from vehicles to take enforcement action. Full notes to be made and photographs taken. CEOs should always attempt to move vehicles that are loading/unloading onto the carriageway so that the activity may continue.

EXEMPTIONS:

- Notification has been received that special permission has been given by the Parking Services.
- If pavement parking is permitted in the road or the vehicle is on Lewisham exemption
- Vehicles used in connection with Building Operations highway maintenance where the presence of the vehicle on the footway is essential and the **activity could not reasonably be carried out if the vehicle was parked elsewhere**. This includes building, demolition and excavation; maintenance, improvement, reconstruction, cleansing or lighting of the street; installation or repair of sewers; installation or repair of gas, water or electricity mains or telecommunications systems; placing, maintenance or removal of signage.
- Vehicles used by and for the purpose of erecting/dismantling scaffolding or glazing, where there is a safety risk to the public.
- Vehicles being used for Fire Brigade, Ambulance or Police purposes.
- Under the Greater London Council (General Powers) Act 1974, loading/unloading is permitted whilst parked on the footway but **only if both the following apply** -

- The loading or unloading of the vehicle could not have been satisfactorily performed had the vehicle not been so parked: **and**
- The vehicle was not unattended at any time while it was so parked.

Code 61 or 62 PCN may also be issued whilst vehicle left unattended at any time during the process.

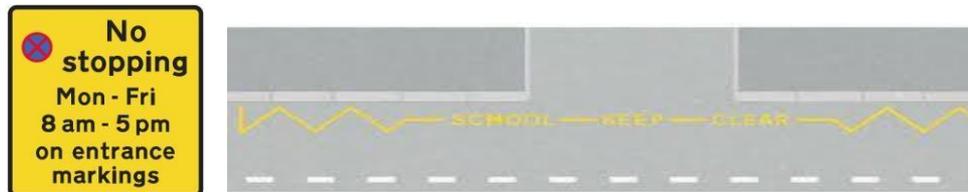
Zigzag markings outside schools

Contravention Code 48 – stopped in a restricted area outside school, a hospital or a fire, police or ambulance station when prohibited.

These restrictions are provided for safety reasons to ensure clear sight lines for both motorists and children outside schools.

They are identified by yellow zigzag lines and large yellow signs placed either in the centre of or at the end of the restrictions.

School zigzags are only operational during school term times and the times stated on the plate which is usually **Mondays to Fridays 8am - 9.30am and 2:30pm - 4.30pm**, however these times can change if the schools request a different enforcement time.



Please check the signs carefully before parking or stopping.

No vehicles, including vehicles displaying a disabled person's blue badge, are permitted to stop within the area of the markings during the times and dates the restriction is in force, even for picking up or setting down of passengers. Additionally, you must not load or unload within the restricted area during the time and period that the restriction is in operation. If the school lies within a Controlled Parking Zone (CPZ), then the keep clear area may also be covered by a single yellow line restriction. This prohibits parking within the school keep clear area during the CPZ hours of operation. If you are not sure of the hours of operation, check the CPZ entry signs, permit parking bay signs or signs at pay & display machines. If you park on a yellow line (without causing an obstruction) near a school whilst dropping off or picking up your child, you can park for up to five minutes for free. If you stay longer than five minutes you may get a PCN. If you park in a resident parking bay near a school whilst dropping off or picking up your child, you can park for up to five minutes for free. If you stay longer than five minutes you may get a PCN.

LBL enforces some school zigzags via the CCTV camera and on street CEO. If a PCN is issued via the CCTV Camera it will be sent via post with a representation form to allow you to appeal the PCN.

Bays for Specific users

Contravention Code 40 – parked in a designated disabled persons parking space without displaying a valid disabled persons badge in the prescribed manner



Disabled bays are reserved for motorists that are clearly displaying a valid disabled person's blue badge. Unless there is a specified time of control or days of control on the bay sign, then the bay is controlled on a 24-hour, seven days-a-week basis. Any vehicle parked in the disabled bay not displaying a valid permit will be issued with contravention code 40, no observation period required.

Contravention Code 23 – parked in a parking place or area not designated for that class of vehicle



Car club bays are restricted for use by vehicles from the recognised car club organisation. These bays are enforceable 24- hours-a-day, seven days-a-week throughout the year. They are only available for use by vehicles that have a valid car club permit and each individual location with have a specific location number. Any non-car club vehicle will be issued the contravention code 23, no observation period required.

Contravention Code 45 – stopped on a taxi rank



These bays are for hackney carriage vehicles only, any other vehicles including mini cabs seen parked in these bays will be issued a PCN and no observation period is required.

Contravention Code 14 – Parked in an electric vehicle charging place during restricted hours without charging – on street

Contravention Code 71 - Parked in an electric vehicle charging place during restricted hours without charging – off street



The vehicle must be plug in and being charged. Any vehicle seen at the location without charging will be issued this contravention no observation period required.

EXEMPTIONS:

- Cleansing and refuse vehicles collecting rubbish from the side of the road.
- Vehicles used for Fire Brigade, Ambulance or Police purposes.
- Domestic and office removal vehicles with special permission from the suspensions team.
- Vehicles being used for building demolition, excavation or construction; scaffolding lorries and glaziers carrying out work in or adjacent to street.

MOVING TRAFFIC CONTRAVETIONS

Moving traffic contraventions are enforced by CCTV cameras and the PCN is a regulation 10 PCN, which is sent by post to the DVLA registered keeper of the vehicle.

Non-adherence to moving traffic restrictions has serious road safety consequences. Signs are put in areas where moving traffic restrictions apply. The sign could be a stand – alone sign or be part of another sign or signs, traffic light or bollards. The type of sign would indicate the type of traffic restriction in force. These signs can be found in the London Local Authorities and Transport for London Act 2003, Schedule three and in the Traffic Signs Regulations and General Directions 2016.

Contravention code 51 – Failing to comply with a no entry restrictions



You must not enter or reverse beyond this sign.

Contravention code 32 – Failing to drive in the direction shown by the arrow on a blue sign



OR



Traffic must proceed in the direction of the arrow, if they don't proceed in the direction shown then a PCN will be issued for code 32

Contravention code 38 – Failing to comply with a sign indicating that vehicular traffic must pass to the specified side of the sign



OR



Traffic must comply with the requirements prescribed in regulation 15. This means you must keep to the left hand side of the road or to the right hand side if the arrow is facing to the right, if they don't keep to the correct side then a PCN will be issued for code 38

Contravention code 50 – Performing a prohibited turn



No left turn.



No right turn.

Contravention code 29 – Failing to comply with a one way street



Traffic must comply with the requirements and travel in the direction of the signs, failure to follow the direction would result in a PCN being issued for code 29

Contravention code 31 – Entering and stopping in a box junction



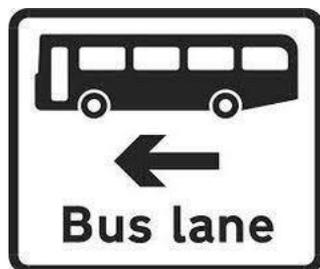
Motorists must not enter the box junction when the exit is not clear, stopping in the junction will result in a PCN being sent. This is an instant PCN.

BUS LANE and PRIORITY ROUTES

Contravention code 34 – Being in a bus lane

The aim of bus lanes is to give priority to public transport services and to exclude other motorists from using them during prescribed hours. The benefits include a reliable and timely public transport service. A reliable public transport service contributes towards reducing pollution and congestion and people are encouraged to use public transport services.

In Lewisham, we currently enforce one bus lane, in Lewisham High Street from the Junction of Albion Way to Limes Grove, which can be used by public transport vehicles (buses), motor vehicles which are constructed or adapted to carry more than eight passengers (excluding the driver), licensed taxis (not private hire), motorcycles and pedal cycles. The bus lane is in operation 24 hours a day, 7 days a week.



Contravention code 33 – Using a route restricted to certain vehicles

The aim of priority route is to give priority to public transport services and to exclude other motorists from using them during prescribed hours. The benefits include a reliable and timely public transport service. A reliable public transport service contributes towards reducing pollution and congestion and people are encouraged to use public transport services.



EXEMPTIONS for Bus lane and Priority route:

- Vehicle involved in moving an obstruction.
- Vehicles indicated on sign
- Vehicle entering on the instruction of a uniformed Police officer.
- Glaziers and scaffolding vehicles, if carrying out work on the restricted route itself.
- Vehicles used in connection with Building Operations highway maintenance for work on the restricted route, where the presence of the vehicle on the restricted route is essential. This includes building, demolition and excavation; maintenance, improvement, reconstruction, cleansing or lighting of the street; installation or repair of sewers; installation or repair of gas, water or electricity mains or telecommunications systems; placing, maintenance or removal of signage.
- Local Authority refuse collection vehicles when collecting refuse.
- Vehicle being used for Fire Brigade, Police or Ambulance purposes.

Contravention code 52 – Failing to comply with a prohibition on certain types of vehicles



No motor vehicles. A PCN will be issued to any vehicle passing this restriction

Contravention code 53 – Failing to comply with a restriction on vehicles entering a pedestrian zone



EXEMPTIONS:

- Vehicle involved in moving an obstruction.
- Vehicle entering on the instruction of a uniformed Police officer.
- Vehicles used in connection with Building Operations highway maintenance for work on the restricted route, where the presence of the vehicle on the restricted route is essential. This includes building, demolition and excavation; maintenance, improvement, reconstruction, cleansing or lighting of the street; installation or repair of sewers; installation or repair of gas, water or electricity mains or telecommunications systems; placing, maintenance or removal of signage.
- Local Authority refuse collection vehicles when collecting refuse.
- Vehicle being used for Fire Brigade, Police or Ambulance purposes.
- Any vehicle on a permitted exemption list.

Part 3 - CIVIL ENFORCEMENT OFFICERS (CEOs):

- 1) CEOs are the public face of CPE therefore it is essential that they present a professional image. Whether the officers are employed directly by an authority or by a contractor, it is important that enforcement is effective, efficient and fair and that it is seen to be so. CEOs should issue a PCN where they believe a contravention has occurred and to record any observations. They should not be allowed to cancel PCNs once issued or select not to issue unless an exemption has been identified.
- 2) CEOs need to demonstrate firmness, sensitivity and tact, at all times. They should have good judgement and patience, thinking clearly and reacting rationally under pressure. Appropriate training and development opportunities should be provided by the authority.
- 3) As described earlier, under the TMA 2004, enforcement authorities are responsible for considering any representations against PCNs. Therefore, authorities should make clear to CEOs that their job is to enforce the controls fairly with a view to achieving high levels of compliance. In practice, this means that authorities need to ensure that all CEOs are:
 - competent and willing
 - supervised effectively
 - properly trained and clearly instructed about their conduct
- 4) Due to the nature of their role, by recommendation of the Secretary of State, all CEOs should undergo a Disclosure and Barring Service checks (previously known as the Criminal Records Bureau checks), with regular monitoring once employed. Authorities are also entitled to ask exempted questions under The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

CEO Duties:

The main objective of a CEO should be to ensure CPE is observed and enforced in a fair, accurate and consistent manner. CEOs must comply with the national legislation that applies to all local authority staff.

The main duties of a CEO on street are:

- enforcing parking regulations by serving PCNs where vehicles are parked in contravention of the restrictions
- logging all their daily activity in their hand-held computer (HHC) or pocket book

CEO duties will also include related activities such as:

- assisting the public as the first point of contact on-street, regarding minor parking enquiries and enforcement matters
- inspecting parking equipment such as pay and display machines and reporting any faults observed
- checking and reporting defective traffic signs and road markings including signs that are missing, obscured or damaged and broken or faded road markings
- providing witness statements for a parking adjudicator when deciding on a written appeal from a motorist
- where appropriate, appearing before a parking adjudicator

Under provisions set out in the London Local Authorities and Transport for London Act 2008, CEOs may remove anything which obscures a registration mark or part of a registration mark fixed on a vehicle. This will include covers.

Training:

The LBL recognise the importance of the role of the CEO and will work with their partners to ensuring that suitable personnel are recruited and provided with appropriate training, equipment, guidance and supervision.

All CEOs should be adequately trained to enforce civil parking fairly, accurately, consistently and LBL will work with their partners and recommended that supervised on-street training is given to familiarise the CEOs with the area and any special parking provisions within LBL.

LBL and their partners will make sure that CEOs understand all relevant exemptions, such as those applying to diplomatic vehicles and Blue Badges issued to disabled people. CEOs should be aware of their powers to inspect Blue Badges and the sensitivity required should they need to exercise this.

It is recommended that all CEOs achieve minimum standards through recognised training courses.

Training should equip CEOs with the interpersonal, conflict resolution and oral communication skills they need to perform their role effectively and without undue stress or personal danger. Training should be on going based on existing qualifications and tailored with local needs and policies.

Training for CEOs should also cover:

- introduction to the role and duties of CEOs
- understanding the legal foundation and objectives of CPE
- how the system works in practice
- types of permitted and restricted parking
- types of civil parking contraventions
- the PCN, including the information it must contain, standard contravention codes, optional suffixes and additional details for use by the authority if a penalty charge is disputed
- the difference between higher and lower level PCN contraventions
- waivers, exemptions and dispensations
- exemptions for vehicles displaying a Blue Badge, how the nationwide scheme works and an awareness of the problems faced by disabled people
- provisions on loading and unloading
- provisions on picking up and setting down
- the vehicle registration system, including foreign and diplomatic registrations
- use of HHC, including daily test routines, recording data accurately and rectifying common faults
- use of PCN printing equipment, whether integrated within the HHC or a separate unit, including changing paper/batteries and minor maintenance
- use of digital cameras, whether integrated within the HHC or separate units, including how to take digital photographs that are relevant and of good quality for use as supporting evidence
- use of communication devices and the phonetic alphabet
- requirements concerning uniforms
- PCNs not served due to violence, threat of violence, obstruction or drive-aways
- on-street patrol methods, including both general principles and specific advice on enforcing different types of parking control (such as loading only restrictions, permitted parking pay and display bays)
- customer care, including conflict management
- emergency procedures and personal security
- the need to operate within the law and, in particular, not to break traffic regulations whilst enforcing them • the adjudication service, including the preparation of witness statements

CEOs will also need training in the local procedures drawn up by LBL, including:

- discretionary exemptions, waivers and dispensations
- other special exemptions
- observation periods
- mitigating circumstances and other matters which require CEOs to use their judgement
- liaising with the police and traffic wardens to deal with illegally parked vehicles
- complaints by members of the public
- other aspects of enforcement specific to the authority, such as type of HHC used, standards expected of CEOs and type of voucher, pay be phone providers and pay-and-display machines used

CEOs must wear a clearly identifiable uniform. This should be readily distinguishable from those worn by the police and traffic wardens, but still allow easy public recognition.

The current requirements are:

- clear identification that the wearer is a CEO
- clear identification of the local authority on whose behalf the CEO is working
- a personal number to identify the CEO (this may contain letters as well as numerals)

To undertake enforcement action, a CEO must be clearly identifiable and in the full uniform specified (allowing for variations according to local weather conditions). This need not necessarily include a hat.

When CEOs are on-street but not carrying out enforcement duties (e.g. walking back to base at the end of a shift), it is recommended that they “dress down” (e.g. remove hats and shoulder numbers) to avoid giving the impression that they are ignoring illegal parking.

Staff engaged in enforcement by CCTV are not required to wear a uniform if they are not performing any on-street enforcement activities.

Handbook:

The Civil Enforcement Officers Handbook, produced by London Councils' Transport and Environment Committee can be used on-street or in the office and contains a summary of existing restrictions, contravention codes and other references (see link below).

<https://www.londoncouncils.gov.uk/services/parking-services/parking-and-traffic/parking-information-professionals/civil-enforcement>

Camera Operators:

Where enforcement is based on CCTV enforcement, authorities should make sure that operators have specialised training. LBL have a separate Code of Practice for CCTV.

The London Borough of Lewisham does not currently clamp or remove vehicles.

Part 4 - PENALTY CHARGE NOTICES (PCNs):

A PCN is the prima facie evidence of the parking contravention.

Parking PCNs are either issued under Regulation 9 or Regulation 10 of The Civil Enforcement of Parking contraventions (England) General Regulations 2007.

A Regulation 9 PCN is served on-street by a CEO. In this situation the PCN must either be fixed to the vehicle or given to the person who appears to be in charge of the vehicle.

A Regulation 10 PCN is served by post. In these situations the PCN may also act as the Notice to Owner (NtO).

Service of the PCN at the time of the contravention:

A PCN must either be attached to the vehicle or given to the person who appears to be in charge of that vehicle time

The CEO should be clearly visible at all times when issuing a PCN.

A PCN should be attached to the vehicle and must be weatherproof or able to fit a weatherproof envelope. It should be fixed in such a way that it cannot easily be removed by adverse weather conditions or passers-by.

HHCs transfer details of PCNs electronically to a central database which prevents any changes to the data once the PCN is issued. A second copy is not produced when serving a PCN but can be produced at a later time, for example for the purposes of proceedings before an adjudicator and needs to be an exact copy of the original PCN.

If the PCN is written by hand, the CEO needs to produce two copies. One is served and the other kept by the authority for monitoring payment and dealing with representations, including any which go before an adjudicator.

A PCN served on the vehicle or to the person who appears to be in charge of the vehicle (Regulation 9 PCN) must contain the following information:



A PCN served on the vehicle or to the person who appears to be in charge of the vehicle (Regulation 9 PCN) must contain the following information:

- the date on which the PCN is served
- the name of the enforcement authority
- the registration mark of the vehicle involved in the alleged contravention
- the date and time at which the alleged contravention occurred
- the grounds on which the CEO serving the PCN believes that a penalty charge is payable
- the amount of the penalty charge
- the manner in which the penalty charge must be paid
- that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN was served
- that if the penalty charge is paid not later than the last day of the period of 14 days beginning with the date on which the PCN is served, the penalty charge will be reduced by the amount of any applicable discount – currently 50 per cent
- that if the penalty charge is not paid before the end of the period of 28 days beginning with the date on which the PCN was served, an NtO may be served by the enforcement authority on the owner of the vehicle
- that a person on whom an NtO is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected
- that, if representations against the penalty charge are received at such address as may be specified for the purposes before an NtO is served, those representations will be considered; but that, if an NtO is served notwithstanding those representations, representations against the penalty charge must be in the form and manner and at the time specified in the NtO

It is recommended that the PCN also provides:

- detailed location of vehicle (full street name)
- the contravention code
- observation start and finish times (where appropriate)
- PCN number (all PCNs should be uniquely identifiable)
- CEO's identification number
- vehicle make and colour (if identifiable)

If two or more PCNs are issued for the same contravention within the 24 hours period, to a vehicle that has not been moved, it is current practice to cancel all but one PCN. However, it may be sensible to review all PCNs issued and cancel the PCNs with the least robust evidence. For instance, if digital photographs for one of the PCNs was taken in the daytime and the others taken at night, the one taken in the daytime may well be clearer.

It is important to put relevant information on the PCN's payment slip so that payment is assigned to the correct case. This should include the PCN number and the vehicle registration mark, plus other identifiers such as the date and time of issue. It is recommended that the payment slip states the amount of the penalty charge, so that even if it becomes detached from the notice, the recipient knows how much is due.

Service of a PCN by post:

There are some circumstances in which a PCN (under Regulation 10) may be served by post:

where the contravention has been detected on the basis of evidence from an approved device (approved devices may only be used in limited circumstances).

In any of these circumstances a PCN is served by post to the owner and also acts as the NtO. The Secretary of State recommends that postal PCNs should be sent within 14 days of the contravention. Legislation states that postal PCNs must be sent within 28 days, unless otherwise stated in the Regulations.

PCNs for contraventions detected by an approved device cannot be placed on the vehicle or handed to the person who appears to be in charge of the vehicle. They are sent by post to the registered keeper and in under these circumstances, they are offered a 21 day discount period.

The PCN sent by post on the basis of evidence produced by an approved device may also serves also as an NtO. It must state:

- the date of the notice, which must be the date on which it is posted
- the name of the enforcement authority
- the registration mark of the vehicle involved in the alleged contravention
- the date and time at which the alleged contravention occurred
- the amount of the penalty charge
- the manner in which the penalty charge must be paid
- the grounds on which the enforcement authority believes that a penalty charge is payable
- that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN is served
- that if the penalty charge is paid not later than the last day of the period of 21 days, beginning with the date on which the PCN was served, the penalty charge will be reduced by any applicable discount – currently 50 per cent
- that if after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made in accordance with 'Regulation 4' of the Representations and Appeals Regulations, and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the amount of any applicable surcharge – currently 50 per cent and take steps to enforce payment of the charge as so increased; the amount of the increased penalty charge
- the amount of the increased penalty charge
- that the PCN is being served by post on the basis of a record produced by an approved device



- that representations on the basis specified in Regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days, beginning with the date on which the PCN is served may be disregarded
- the nature of the representations which may be made under Regulation 4
- the address (including, if appropriate, any e-mail address or fax telephone number, as well as the postal address) to which representations must be sent
- the form in which they (the representations) must be made
- that if representations which have been made within the representation period or outside the period but not disregarded, are not accepted by the enforcement authority, the recipient of the PCN may appeal against the authority's decision to an adjudicator
- the recipient of the PCN may, by notice in writing to the enforcement authority, request it to make available at one of its offices specified by him/her, free of charge and at a time during normal office hours so specified, for viewing by him/her or by his/her representative, the record of the contravention produced by an approved device pursuant to which the penalty charge was imposed; or to provide him/her, free of charge, with such still images from that record as, in the authority's opinion, establish the contravention

It is recommended that the PCN also gives:

- detailed location of vehicle (full street name)
- the contravention code
- observation start and finish times (where appropriate)
- PCN number (all PCNs should be uniquely identifiable)
- vehicle make and colour (if identifiable)

It is recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN. The authority must comply within a reasonable time to requests to see the record of the contravention or send a copy of the still images.

The PCN, which also serves as the NtO, must be served by first class post. It must state:

- the date of the notice, which must be the date on which it is posted
- the name of the enforcement authority
- the registration mark of the vehicle involved in the alleged contravention
- the date and time at which the alleged contravention occurred
- the amount of the penalty charge
- the manner in which the penalty charge must be paid

- the grounds on which the enforcement authority believes that a penalty charge is payable
- that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the PCN is served
- that if the penalty charge is paid not later than the last day of the period of 14 days, beginning with the date on which the PCN was served, the penalty charge will be reduced by any applicable discount – currently 50 per cent
- that if after the last day of the period of 28 days beginning with the date on which the penalty charge notice is served, no representations have been made in accordance with 'Regulation 4' of the Representations and Appeals Regulations, and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the amount of any applicable surcharge – currently 50 per cent and take steps to enforce payment of the charge as so increased; the amount of the increased penalty charge
- that the PCN is being served by post because a CEO attempted to serve a PCN by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person
- that representations on the basis specified in Regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days, beginning with the date on which the PCN is served may be disregarded
- the nature of the representations which may be made under Regulation 4
- the address (including, if appropriate, any e-mail address or fax telephone number, as well as the postal address) to which representations must be sent
- the form in which they (the representations) must be made
- that if representations which have been made within the representation period or outside the period but not disregarded, are not accepted by the enforcement authority, the recipient of the PCN may appeal against the authority's decision to an adjudicator

It is recommended that the PCN also gives:

- detailed location of vehicle (full street name)
- the contravention code
- observation start and finish times (where appropriate)
- PCN number (all PCNs should be uniquely identifiable)
- CEO's identification number
- vehicle make and colour (if identifiable)

Collection of Information:

CEOs should record relevant information and photographic evidence. LBL and their partners should provide CEOs with the equipment, training and guidance to collect such evidence, bearing in mind that they may find this harder where service is being prevented.

- whether the PCN was affixed to the windscreen or handed to the driver



- whether the driver was seen and if any conversations took place with the driver
- any evidence of loading and unloading activity after the PCN had been issued
- expiry time of pay and display ticket or virtual session
- details of any permit/badge displayed (including virtual permits)
- any evidence of breakdown
- details of any notes in or on the vehicle
- tyre valve positions
- details of suspensions and signage in relation to the vehicle
- details of any road works likely to affect parking
- details of yellow lines (single, double or broken) and the nearest time-plate (if appropriate)
- foreign or diplomatic plates
- whether PCN was spoilt
- Controlled Parking Zone
- evidence of cashless parking payments (for example: mobile phone payments)
- photographs should be taken whenever possible. Whilst they are not compulsory, the evidence provided is extremely useful.

Photographs should be taken of:

- The vehicle parked in contravention
- The vehicle registration number
- The PCN on the vehicle
- The dashboard showing any permits, vouchers or tickets
- Any lines/nearby signs or time-plates relating to the contravention
- Evidence of cashless parking payments (for example: mobile phone payments)

In yellow line cases, as much information as possible should be recorded to establish the precise location of the vehicle, especially in streets where there may be a range of different regulations in different parts.

Such information may include:

- Details of yellow lines/kerb stripes (e.g. single, double line/one, two kerb stripes)
- Details of kerbside plates (e.g. location, times of loading and waiting restrictions)
- Detailed location of vehicle (e.g. by/on N/S/E/W kerb; outside/opposite No. X yards/meters)

Where a vehicle is parked in contravention of more than one restriction, e.g. parked on a footway in a restricted street during prescribed hours, only one PCN should be issued. CEOs should be instructed on which contravention takes precedence in such circumstances. In a situation where a vehicle is committing a higher and a lower level contravention, the higher level penalty should take precedence, as this has been identified as the more serious contravention.

Contraventions and associated code numbers:

The motorist must be able to read and understand why the PCN was issued. The key element is the contravention description, as the use of the code on its own may not be sufficient information.

A standard list of contraventions and associated code numbers and suffixes can be found on [London Councils](#)

Authorities must only use those codes and suffixes found in the contravention code list and must not use any other codes or suffix variations.

Service of Penalty Charge Notices:

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 indicate that a postal PCN may be served by first class post, but not second class post. Unless proved otherwise, service of first class post is taken to have been on the second working day after the day of posting. A working day excludes Saturdays, Sundays, Christmas Day, New Year's Day, Good Friday and any other English bank holiday. The date of posting is not necessarily the same as the date on which the back office staff prepares the PCN and authorities should make sure that their procedures take account of this.

WORKING PRACTICES:

A PCN should be issued if the vehicle is parked incorrectly to the extent that at least one wheel is wholly in contravention. For example, a wheel being wholly outside the markings of the bay or wholly on a yellow line. If all of the wheels are within the confines of the bay, but the vehicle is large and overhangs the bay to such an extent that it causes an obstruction equal to a normally sized vehicle with one wheel wholly in contravention, then a PCN can also be issued.

When motorists claim that they went for change –no time is given for ‘going for change’ only the required observation period should be given.

Where an on-street payment machine, such as a pay-and-display or payment terminal is ‘out of order’, CEOs should not issue a PCN to vehicles unless there is an alternative means of payment available. This includes a different machine nearby or an alternative method of payment such as mobile phone payments. Where a PCN is issued, the CEO should record details of any note on display showing ‘out of order machine’, the location of the faulty machine and the location of the nearest working machine, if appropriate. The onus should be on the motorist to pay for parking and take reasonable steps to do so.

Notice or note left in car – CEOs should make a record of any note left on display.

Parked on the footway - at least one wheel must be wholly on or over the footway (not just partially on the kerb) or the vehicle is parked outside the permitted pavement parking lines.

GRACE PERIODS:

The Deregulation Act 2015 requires that a PCN must not be issued to a vehicle that has remained parked in a designated parking place on a road or in a local authority car park beyond the permitted parking period for a period of time not exceeding 10 minutes.

Grace periods only apply to designated parking places where a person is permitted to park. A road with a restriction (e.g. single yellow line) or prohibition (e.g. double yellow line) is not a 'designated' parking place either during or outside of the period of the restriction or prohibition.

In general, authorities should apply the following rule: if a vehicle is parked legally on a designated parking bay when it is initially parked, then a 10 minute grace period should be applied before issuing a PCN from the moment it becomes parked illegally.

OBSERVATION TIMES

Some contraventions are 'instant' and a PCN can be issued immediately (such as stopping where parking, loading and unloading are prohibited). In other cases there may be sufficient exemptions to a general rule as to cause some doubt as to whether a contravention has occurred at the time of the initial appearance of the CEO.

In these circumstances a period of observation can help to establish whether or not an exemption applies. LBL and their Partners give a Five minutes period of observation, although consideration could be given to extending this period for commercial vehicles, where it is more likely that loading/unloading is taking place or reduce the period for difficult enforcement areas.

HAND-HELD CAMERAS

It is recommended that hand-held cameras (not subject to CCTV rules) are used by CEOs to provide additional evidence of a contravention and service of the PCN, preferably ones with a time and date recording facility. They will not replace any of the other evidential rules set out previously within this document.

Part 5 – NOTICE PROCESSING

INTRODUCTION

The processing of PCNs is as important as issuing the PCN. Timely processing helps secure prompt payments and gives motorists wishing to challenge them a fairer opportunity to do so. This generates better customer relationships and ensures that complaints are kept to a minimum. Slow or poor quality processing systems are unfair to the public and make it harder and more expensive for authorities to collect payment. Authorities should have robust systems, adequately trained staff, with policies and procedures in place to ensure the effective processing of PCNs.

SYSTEMS

The London Borough of Lewisham has a proven and effective PCN processing system. Our system is suitable, properly installed and tested, with adequate ongoing technical support and fully trained staff prior to its deployment. Particular care needs to be taken when migrating from one system to another.

STAGES IN PROCESSING

In all cases, it is essential to ensure that statutory time limits are met, and to try and ensure that backlogs or delays are not permitted to build up. It is also important that any case status changes and any associated charge increases are not applied too soon. This will help provide a good service and improve public confidence in the enforcement process. It is crucial to always allow time for delivery of documents where service is by post, as time limits usually apply to service and not issue.

DATA AND MANAGEMENT INFORMATION

Data and management information needs to be reliable to assist with accountability. Regular and consistent reporting allows for transparency and should assist the public in understanding the CPE process. Monitoring provides the authority with management information for performance evaluation and helps to identify the need for improvement, providing a framework for performance comparisons between authorities.

LBL produces annual reports on enforcement activities within six months of the end of each financial year. This report covers financial and statistical data and is published in accordance with the Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions).

As a minimum, the following financial and statistical information is required:

- Total income and expenditure on the parking account kept under section 55 of the RTRA 1984, as modified by Regulation 25 of the General Regulations 2007
- Breakdown of income by source (i.e. on-street parking charges and penalty charges)
- Total surplus or deficit on the parking account
- Action taken with respect to a surplus or deficit on the parking account
- Details of how any financial surplus has been or is to be spent, including the benefits that can be expected as a result of such expenditure
- Number of higher level PCNs issued
- Number of lower level PCNs issued
- Number of PCNs paid
- Number of PCNs paid at discount rate
- Number of PCNs against which an informal or formal representation was made
- Number of PCNs cancelled as a result of an informal or a formal representation is successful
- Number of PCNs written off for other reasons (e.g. an error by the CEO or driver untraceable)

PAYMENTS FOR PCN's

PCN's are usually payable by the owner of the vehicle, unless the vehicle was hired at the time of the contravention.

An extensive range of payment options, by which penalty charges can easily be paid are available

The successful introduction of CPE requires convenient and up-to-date facilities for the payment of penalties and other parking charges. Motorists may be more likely to pay penalty charges if it is quick and easy to do so.

LBL have an efficient and secure system for collecting penalty charge revenue, which will improve an authority's financial performance by minimising bad debts and the time-consuming and costly actions needed to collect them. Although there is a limit on the time during which payment of PCNs can be made at the discounted rate, allowances should always be made for exceptional circumstances (e.g. unforeseeable delays due to breakdown in postal service).

METHODS OF PAYMENT

In order to make payment as accessible as possible, LBL have in place for the following methods of payment for the settlement of PCNs:

- Personal & company cheques
- Debit & credit cards by telephone (including using automated phone payment systems) or online tools

The choice of payment methods available should ensure ease of payment for motorists, although authorities should promote where possible the most cost effective method available.

It is important that authorities consider equality implications and ensure that systems do not inadvertently discriminate against some sections of the population. As such, it is advisable that systems are set up to allow motorists to pay by whatever method is most convenient to them.

LBL have procedures in place for dealing with overpayments, underpayments and unidentified payments.

A PCN is deemed 'paid' as soon as the payment arrives at any payment office belonging to the enforcement authority that issued the PCN. An authority's system should accurately record the day on which it receives payments so that no further enforcement action is taken.

Where members of the public submit a payment with a letter challenging the PCN and seeking redress, LBL will always consider the challenge.

In instances where an adjudicator finds in favour of the appellant, perhaps awarding costs against the authority or necessitating the refund of PCN and clamping or removal fees, the appellant will seek and not unreasonably expect a prompt return of any money owed. Therefore, this means that the administrative process of making the refund must be started as soon as the authority is aware of the adjudicator's decision and the refund completed as quickly as possible thereafter and within 28 days.

CHALLENGES, REPRESENTATIONS AND APPEALS

The person responsible for the vehicle (usually the vehicle owner) may dispute the issuing of a PCN at three stages:

- So-called 'informal challenges' or 'informal representations' can be made against the PCN before the authority has served an NtO
- Once an NtO (**see Appendix 1, Sample Document 1.14**) has been served, the vehicle owner may make a formal representation to the authority
- If a formal representation has been rejected by the authority, the vehicle owner may appeal against the Notice of Rejection (NoR) to an independent adjudicator

LBL will try to resolve any disputes with vehicle owners at the earliest possible stage and should always give challenges and representations a fair and impartial consideration.

The practice of considering challenges, representations and appeals is a legal process. LBL ensures that officers dealing with these aspects are fully trained in the relevant legislation and its application. Where necessary, authorities should consult their legal departments when dealing with complex cases.

It is important to have a good quantity of high quality data readily available to staff who are considering challenges to PCNs and representations. This means staff should have access to all original PCN data, any photographic evidence, CEOs notes, updated keeper details, suspension details, TMOs, equipment maintenance records, records of the condition of lines and signs, and any other similar information which could help them. Where necessary, conditions of lines and signs should be checked on-site as soon as any doubts are raised rather than being delayed, for example, until the appeals stage. This means that problems can be dealt with quickly and the findings of such visits can be applied to other PCN cases.

LBL will act fairly and proportionately when exercising their discretionary powers to cancel a PCN at any point throughout this process, if it deems it to be appropriate based on the circumstances of the case.

LBL will ensure that PCNs, NtOs and any other advice given to members of the public is not misleading as to what they may consider in the way of representations and they should formulate and publish their policies on the exercise of discretion.

These policies should be applied with some flexibility and an authority should depart from its policies if the circumstance of the case allows it. Similarly, this information should be readily available to those dealing with cases which are subject to an appeal, so the information can be easily supplied to the adjudicator.

LBL have systems, procedures and working practices set up to consider (and if appropriate, cancel) contested PCNs. See Lewisham Parking Enforcement guidance notes below.

Lewisham Parking Enforcement guidance notes

Statutory grounds to make representations

Traffic Management Act 2004 & London Local Authorities Act 2008
Parking enforcement guidance notes

Introduction

The information below is intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations.

The information is consistent with legislation and best practice and aims to provide clarity, consistency and transparency within the enforcement process and compliance with the Environment & Traffic Appeal Service (ETA) and the Local Government Ombudsman.

The importance of this guidance is that it provides a framework 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 hindered by being unduly rigid.

The guidance addresses the following:

- Observation times for Civil Enforcement Officers
- 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 and considered on the information presented at the time.

This guidance will be subject to ongoing review.

Important note:

Although there are Statutory Grounds on which to Representation, full consideration will be given and account taken of all representations received, whether or not they fall within the description of “Statutory Grounds”.

| The contravention did not occur Where the motorist claims he / she was loading / unloading | |
|--|---|
| Accept representations | Reject representations |
| On a waiting prohibition or in a controlled parking bay: If evidence exists or provided to show: The goods being transported were heavy, bulky, or presented health & safety implications such as hazardous materials and it is considered unreasonable to transport the goods | On school zig zag markings On bus stop clearways On Taxi ranks Where loading is prohibited |

| | |
|--|---|
| <p>from a distance and that the Loading/unloading activity was adjacent to the premises concerned.</p> <p>Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity)</p> <p>If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services, etc.</p> | <p>In car parks: (except when depositing materials in recycling bins)</p> <p>Where evidence is not provided</p> |
| <p>Where the motorist claims that a parking pay and display machine was faulty</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If service records confirm a fault or that the machine had been taken out of service at the time of the contravention.</p> <p>If there is reasonable doubt because evidence not available to confirm that a machine was working at the time (test ticket) and there was not another ticket machine nearby which was operating correctly.</p> <p>If audit data confirms that there is a variance in the income taken on that day from the machine.</p> | <p>If there was another ticket machine nearby that was working correctly at the time or the option to pay via phone</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>If there is the option to pay by a cashless provider</p> |
| <p>Where motorist claims that the restriction is not clearly or correctly signed or marked</p> | |

| May accept representations | May reject representations |
|--|--|
| <p>If signs and/or markings are missing or unclear.</p> <p>If signs and markings are inconsistent with each other and/or Traffic Regulation Order.</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> |
| Where motorist claims that PCN was not served | |
| May accept representations | May reject representations |
| <p>If the Civil Enforcement Officers 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 PCN was issued via CCTV that the PCN was not served by post within legislative timescale</p> | <p>If the Civil Enforcement Officers notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle.</p> <p>If the PCN was issued via CCTV that evidence exists where PCN was posted and served within legislative timescales</p> |
| Where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on the PCN which was issued | |
| May accept representations | May reject representations |
| <p>Following consideration of all available evidence:</p> <p>It might also be necessary for the motorist to provide a copy of the logbook and photographs to identify the vehicle.</p> | <p>If there is no evidence or if the evidence presented does not support the claim or is inconclusive.</p> |
| Where motorist claims that a valid authorisation to park, had been issued | |
| May accept representations | May reject representations |

| | |
|--|---|
| <p>If records show that the motorist holds a valid authorisation to park.</p> | <p>If the motorist cannot provide a copy of the valid authorisation to park or if there is no record of any issue of the authorisation</p> <p>If the motorist did not park in accordance with the authorisation/instruction.</p> |
| <p>Where the motorist claims that a pay & display ticket was purchased and displayed.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If the motorist produces a pay & display ticket that was valid at the time</p> <p>PCN was issued and the Civil Enforcement Officer confirms that a face down ticket or a ticket that was displayed but concealed in some other way was seen and it is the first contravention of this kind.</p> | <p>If the motorist is unable to produce a valid pay & display ticket</p> <p>The motorist has made a similar representation before and had a previous PCN cancelled, after giving them the benefit of the doubt; or</p> <p>The Civil Enforcement Officer noted that the motorist obtained their ticket from another motorist in the car park; or</p> <p>The Civil Enforcement Officer noted that the ticket was face down and the serial number recorded differs from that produced by the motorist.</p> |
| <p>The penalty charge exceeded the relevant amount.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If the PCN, Notice to Owner or Enforcement Notice showed the incorrect amount or incorrect charge band</p> | <p>If the PCN, Notice to Owner or Enforcement Notice showed the correct amount of charge.</p> |

The Traffic Regulation Order was invalid.

| May accept representations | May reject representations |
|---|---|
| <p>If the Traffic Regulation Order which prescribes the restrictions was not constructed or updated correctly</p> | <p>If the Traffic Regulation Order which prescribes the restrictions was constructed correctly in accordance with the relevant contravention.</p> <p>If the motorist merely considers the restrictions to be unfair or unnecessary.</p> |

The motorist was not the owner/keeper of the vehicle at the time of the contravention.

In all circumstances the registered keeper is liable for the PCN regardless of whether or not they were driving the vehicle at the time of the contravention.

| May accept representations | May reject representations |
|---|--|
| <p>If the current registered keeper is able to provide proof that the vehicle was disposed of before the contravention, i.e. a bill of sale, registration documents, insurance documents or a letter from the DVLA; and / or</p> <p>If the current registered keeper is able to provide the full name and address of the person to whom they disposed of the vehicle.</p> <p>If the current registered keeper is able to provide proof that the vehicle was purchased after the contravention, i.e. an invoice, registration documents,</p> | <p>If the current registered keeper is unable to prove that they disposed of the vehicle before the contravention or unable to provide the name and address of the person to whom they disposed of the vehicle.</p> <p>If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide.</p> <p>If the current registered keeper is unable to prove that they purchased the vehicle after the contravention nor provide the</p> |

| | |
|---|--|
| <p>insurance documents or a letter from the DVLA; and/or</p> <p>If the current registered keeper is able to provide the full name and address of the person from whom they purchased the vehicle.</p> <p>Only when a hire agreement exists</p> <p>Action - send a new Notice to Owner/Enforcement Notice to the person named by the current registered keeper.</p> | <p>name and address of the person from whom they bought the vehicle.</p> <p>If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide.</p> |
| <p>The vehicle had been taken without owner's consent or where the registered keeper claims that the vehicle had been stolen.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If the registered keeper provides a valid police crime report reference number and police station the theft was reported to.</p> | <p>If the current registered keeper is unable to provide any proof of theft.</p> <p>If the police crime report reference number provided by the current registered keeper does not exist or it does not match the theft or date of the theft alleged.</p> |
| <p>The vehicle had been taken without owner's consent. Where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |

| | |
|---|---|
| In no circumstance. | In all circumstances because the registered keeper is always liable, except for when a hire agreement exists |
| The owner is a hire company and have supplied the name of the hirer. | |
| May accept representations | May reject representations |
| <p>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.</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 company.</p> | <p>If the hire company are unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom they hired the vehicle.</p> <p>If the person named by the hire company as the person to whom they hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention.</p> <p>If the vehicle was being used as a courtesy car without an agreement signed to accept responsibility for any PCNs issued.</p> |
| Legislative procedures had not been followed by the issuing Authority | |
| May accept representations | May reject representations |
| <p>If the appellant can provide proof that the Council has failed to observe requirements of the Traffic Management Act 2004 and relevant Acts.</p> <p>If a piece of documentation has not been served by the correct timescales set out in the regulations.</p> | <p>If the Council can prove that they followed all requirements of the Traffic Management Act 2004 and relevant Acts</p> <p>If it can be shown that all documentation has been sent within the required timescales.</p> |

Penalty Charge Notice was paid, either in full or at discounted rate within the discount period.

May accept representations

If the registered keeper can provide proof that the Penalty Charge Notice has been paid and the amount paid, and there is also a record on the Council's system

May reject representations

If there is no supporting documentation and no record held by the Council to evidence that the Penalty charge Notice has been paid.

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Parking enforcement guidance notes

Mitigating circumstances

| Where the motorist claims to have become unwell while driving | |
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| May accept representations | May reject representations |
| <p>If the motorist provides proof of a medical condition, temporary or permanent, that is consistent with the conditions described or supplies proof of an medical emergency on the day the PCN was issued.</p> <p>When the notes made by the Civil Enforcement Officers 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 or the details supplied are not relevant to the date of the PCN.</p> <p>Where other evidence contradicts the motorists' claims.</p> |
| Where the motorist claims to be a doctor, nurse or other health specialist attending a patient. | |
| May accept representations | May reject representations |
| <p>If the motorist produces evidence, including the address 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 were legal parking spaces 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 claims made in representations, i.e. far from patient's property, say, in a car park.</p> |

Where the motorist stopped to use the toilet.

May accept representations

Only on production of medical evidence which supports a medical condition that related to the circumstances described in a representation.

May reject representations

In all other circumstances.

Where the motorist was a patient visiting a doctor's surgery / hospital.

May accept representations

If the motorist can provide a letter from a doctor / hospital to confirm that the visit was very urgent / emergency and that they were unable to walk from the nearest legal parking space.

If the hospital visit was an emergency and proof from hospital can be provided confirming the emergency.

May reject representations

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 park legally elsewhere.

If the motorist was attending a pre-arranged appointment where appointments have over run.

Where the motorist claims to have been recently bereaved.

May accept representations

If supporting evidence (copy of death certificate) can be produced

May reject representations

If supporting evidence cannot be produced or the bereavement did not occur on the day the PCN was issued.

Where the motorist was delayed in returning to their vehicle and parking time purchased had expired.

May accept representations

May reject representations

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| <p>If supported by appropriate evidence can be produced to confirm that the motorist's return to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional.</p> | <p>If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop/bank.</p> <p>If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. attending an appointment, when conducting business, shopping or commuting.</p> <p>If the motorist was unable to drive since parking due to excess alcohol in the body or had been detained and charged by the police.</p> |
| <p>Where the motorist claims to have been unaware of charges or restrictions</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If reference to restrictions on tariff board(s) are incorrect or missing.</p> <p>If the restrictions are new the Council may consider giving a warning if this is the first time a PCN has been issued in these circumstances</p> <p>If restriction plates are missing or defaced</p> | <p>In all other circumstances.</p> <p>If the motorist has previously had a PCN cancelled for the same contravention and has been warned of the restrictions</p> <p>If CEO has digital image of restriction plate showing times of restrictions without being defaced</p> |
| <p>Where the motorist claims to have been unaware of recent rise in tariff</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If statutory notices were not published or erected in accordance with procedural regulations.</p> | <p>If statutory notices were erected in accordance with procedural regulations and tariff board(s) were correct.</p> |

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| <p>If revised tariff is not on relevant tariff board or displayed on the pay & display machines</p> <p>If motorist paid the old charge the Council may consider giving a warning if this is the first time a PCN has been issued in these circumstances.</p> <p><i>Note: Warning notices are normally given prior to PCNs being issued when new restrictions or new tariffs are introduced</i></p> | <p>If the motorist has previously had a PCN cancelled for the same contravention and has been warned of the new charges.</p> |
| <p>Where the motorist had parked with one or more wheels outside of a marked bay</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>Only when it is clear that the vehicle was parked just outside the markings of the bays.</p> | <p>When clear supporting evidence (photographs / sketch plan) is available.</p> |
| <p>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 or displayed incorrectly.</p> | |
| <p>May accept representations</p> | <p>May reject representations</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 valid blue badge holder or were transporting a person that is a valid blue badge holder.</p> | <p>If the motorist has previously had a PCN cancelled for the same contravention and has been advised 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</p> |

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| | <p>on another restriction for which the Blue Badge does not provide an exemption.</p> <p>If the blue badge has expired.</p> <p>If the vehicle was parked on a contravention where a blue badge would not have been valid.</p> |
| Where the motorist claims to have been unaware of the existence of a controlled parking zone (CPZ). | |
| May accept representations | May reject representations |
| If it can be established that the signing and marking of the CPZ is at fault | In all other circumstances. |
| Where the motorist permit expired | |
| May accept representations | May reject representations |
| If the renewal of the permit was delayed by administrative processes within Parking Services. | In all other circumstances |

Where the motorist is a resident within a controlled parking zone and had parked in a residents bay without purchasing a virtual permit or quoting an incorrect registration number

If the renewal of the permit was delayed by administrative processes within Parking Services.

If it can be established that other reasonably unforeseen circumstances delayed the renewal of the permit e.g. ill health, postal dispute (supported by appropriate evidence).

If there was an error in purchasing the virtual permit ie using O instead of a 0 was used

In all other circumstances

Where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings.

May accept representations

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.

May reject representations

If it can be established that such conditions did not cause lines and signs to be obscured as claimed.

If the Civil Enforcement Officers notes, photographic evidence etc. directly contradict the motorist's version of events.

If any reasonable alternative indication of the restriction was available to the motorist.

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.

Where the motorist claims that their vehicle had broken down.

May accept representations

If the motorist is able to provide evidence of a breakdown, i.e. proof of vehicle recovery or a bill for repair or parts.

May reject representations

If the motorist is unable to provide evidence of any kind that their vehicle had broken down.

If the cause of the vehicle "breaking down" was due to negligence on the part

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| <p>If Garage Report / AA is on company letter headed paper and location, date and nature of breakdown has been confirmed.</p> | <p>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>Where the motorist claims that they were attending an emergency</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If the motorist is able to provide reasonable proof of the emergency, i.e. a credible report of an accident or incident</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>Where the motorist claims to have lost money in the P&D machine and unable to obtain a ticket.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If audit trail confirm an anomaly or confirmation is received that the machine was faulty</p> | <p>If the audit trails does not confirm that the machine was faulty or that machine audit is correct. ticket machine used by the motorist is positioned in such a place that confusion is not likely.</p> |
| <p>Where the vehicle in question was on police duties.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |

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| <p>If a police 4737 form is received authorised and signed by a senior officer of the service .</p> | <p>In all other circumstances</p> |
| <p>Where the motorist claims to have been collecting or depositing monies at a bank.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <p>If the procedure explained in the motorist's representations is consistent with the allowance for loading and unloading</p> <p>If specific arrangements have been agreed and authorised.</p> <p>If the vehicle in question was a security vehicle and evidence can be produced that the vehicle was engaged in the collection or deposit of money at a bank.</p> | <p>In all other circumstances</p> |
| <p>Where the motorist claims to have been unaware of a temporary parking restriction or special event restriction.</p> | |
| <p>May accept representations</p> | <p>May reject representations</p> |
| <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 Officers 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> |

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.

May accept representations

May reject representations

In no circumstances.

On all occasions.

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

May accept representations

May reject representations

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

Where the circumstances cannot be confirmed

Where the motorist stopped to drop off/ collect a passenger.

May accept representations

May reject representations

If the circumstances described were observed by the Civil Enforcement Officer

If motorist was parked / stopped on school keep clear markings, pedestrian crossing, bus stop clearway etc.

All other circumstances

Where motorist states they were in police custody when PCN issued.

May accept representations

May reject representations

If proof (from the Police) has been provided confirming that the police had instructed the motorist to leave the vehicle.

If no from police proof provided.

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.

If vehicle could have been legally parked before arrest.

Where motorist states they were visiting a friend or relative in an emergency.

| May accept representations | May reject representations |
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| Supporting evidence can be supplied confirming emergency situation. | <p>If motorist has already received a PCN, which has been cancelled for the same reason.</p> <p>If the Civil Enforcement Officers notes provide significant reason to doubt the sincerity of representation.</p> |
| Where motorist claims they were parked on private property. | |
| May accept representations | May reject representations |
| <p>If land search maps confirm location is private property and not subject of the relevant Traffic Regulation Order.</p> <p>If there is insufficient evidence to establish location of vehicle.</p> | In all other circumstances. |
| Where motorist was delayed in returning to their vehicle parked in a limited waiting parking place. | |
| May accept representations | May reject representations |
| <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</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 / bank.</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> |
| Where motorist stopped to answer mobile phone. | |

| May accept representations | May reject representations |
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| In no circumstances. | On all occasions. |
| Where motorist states that the details on the PCN are incorrect, e.g. location. | |
| May accept representations | May reject representations |
| If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the Civil Enforcement Officer. | If the PCN was fully and correctly completed. |
| Where motorist states that restriction/suspension was marked after the vehicle had been parked. | |
| May accept representations | May reject representations |
| If records confirm that signing/lining/ placement of cones or suspension notices was likely to have taken place after the vehicle parked. | If there is evidence to show that markings were already in place at the time of parking. |

TRANSFER OF LIABILITY (Hired Vehicles):

General Liability: The PCN is usually payable by the owner of the vehicle, unless the vehicle was hired at the time of the contravention (see below).

Hired Vehicles: Where the recipient of a PCN is a vehicle hire firm and the vehicle in question, at the time of issue, was hired from the firm under a vehicle hiring agreement and the person hiring it, had signed a statement of liability acknowledging a legal responsibility, in respect of any PCN served against the hired vehicle.

The Secretary of State suggests that the NtO requests supplied by the hire firm should include the name and address of the person hiring the vehicle at the time of the contravention and a copy of the statement of liability.

The details that need to be included on the hire agreement in order for liability to be transferable are as follows (from Road Traffic (Owner Liability) Regulations 2000, schedule 2):

Particulars of person signing statement of liability:

- Full name
- Date of birth
- Permanent address
- Address at time of hiring (if different from the above and the stay is likely to be more than two months from date of hiring)
- Details of driving licence:
 - country where issued (if not UK)
 - serial number or driver's number
 - date of expiry (which should be no later than date specified in the particulars of hiring agreements stated below)

Particulars of hiring agreements:

- Registration mark of vehicle hired under the hiring agreement
- Make and model of vehicle hired under the hiring agreement
- Registration mark of any vehicle substituted for the above during the currency of the hiring agreement
- Make and model of any vehicle substituted for the above during the currency of the hiring agreement
- Time and date of any change of vehicle
- Time and date of commencement of original hiring period
- Expected time and date of expiry of original hiring period
- Time and date of commencement of authorised extension of hiring period†
- Expected time and date of expiry of authorised extension of hiring period†
- Actual time and date of return of vehicle (or when vehicle returned out of hours' time and date on which vehicle-hire firm next opened for business)†

†This requirement applies only to the vehicle hire firm's copy of the hiring agreement.

With respect to hire agreements, the hirer is deemed to be the owner (Part 2 {4}{8} The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007) and the authority may issue a second NtO on the hirer, who is liable for payment of the penalty charge due. This only applies in cases where the hire period is for less than six months.

In cases where an agreement lasting more than six months is involved, the registered keeper should make representations that they were not the owner at the time and provide evidence to that effect. Although the level of detail required to be produced by the hiring/leasing company is not as high as is in short-term hire agreements.

REASONS FOR CANCELLING PCNs:

A PCN should be cancelled when satisfactory evidence is produced for any of the statutory grounds for representations.

In cases of extenuating circumstances, LBL establish guidelines under this category to ensure consistency and assist management control. This should include guidance on what evidence would be appropriate in each set of circumstances. LBL must consider using their discretion on all occasions if none of the statutory grounds apply, but the need to be flexible in considering exceptional circumstances must be balanced with the need to enforce parking controls firmly and fairly.

Where there is an element of doubt, LBL may decide to exercise discretion for a first contravention but to be stricter on later occasions. For this reason, it is appropriate to monitor discretionary cancellations carefully to check that the same exceptional circumstances are not being claimed on multiple occasions.

CHALLENGES (INFORMAL REPRESENTATIONS)

Statutory representations cannot be made until an NtO or Regulation 10 postal PCN has been served, however motorists are likely to write to authorities before then if they feel that the PCN is not merited. They can be made at any time up to the receipt of the NtO but are likely to be made within the 14 days discounted period. Any informal representations received will be considered and respond within 14 days.

LBL will deal with all challenges fairly and independently.

Informal representations may be made online or via post.

If LBL considers that there are no grounds for cancellation of the PCN, they should inform the correspondent of their decision and make clear that:

- If the PCN is not paid, an NtO will be served which enables the vehicle owner to make formal representations
- The authority must consider any representations even where it has previously concluded that the evidence does not merit cancellation of the PCN
- If the formal representation is rejected by the authority, the vehicle owner will be able to appeal the decision to an independent parking adjudicator who will consider the statutory grounds for appeal
- It is not possible to appeal to a parking adjudicator without making a formal representation to the authority first

If an informal representation is received within the discount period and subsequently rejected, the authority should re-offer the discount for a further 14 days to encourage payment of the PCN. Authorities should make clear that the vehicle owner may still make a formal representation if an NtO is served.

If an informal representation is received after the 14 day discount period and is rejected, LBL may consider re-offering the discount if circumstances have adversely affected the ability of the motorist to challenge within 14 days.

FORMAL REPRESENTATIONS

Formal representations cannot be made until an NtO has been served. An authority may serve an NtO to the person who appears to them to have been the owner of the vehicle when the alleged contravention occurred, following the expiry of a period of 28 days specified in the PCN (or notification of an unsuccessful informal challenge) within which the PCN is to be paid and the PCN has not been paid.

An NtO may not be served after the expiry of 6 months beginning with the relevant date. The relevant date -

- in a case where an NtO has been cancelled under Regulation 23(5)(c) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, is the date on which the district judge serves notice in accordance with Regulation 23(5)(d)
- in a case where an NtO has been cancelled under Regulation 5 of the Representations and Appeals Regulations, is the date of such a cancellation
- in a case where payment of the penalty was made, or had purportedly been made, before the expiry of a period of 6 months, but the payment or purported payment had been cancelled or withdrawn, is the date on which the enforcement authority is notified that the payment or purported payment has been cancelled or withdrawn
- in any other case, is the date on which the relevant PCN was served under Regulation 9

Staff responsible for considering formal representations will be independent of the PCN issuing staff and of financial pressures. This function is contracted out – LBL remain responsible for this part of the process

There are statutory grounds for representations that can be made to an authority. Authorities are not constrained to these grounds and may exercise discretion as to whether or not to cancel PCNs on other grounds and it is important that authorities exercise their discretionary powers responsibly and reasonably. If the authority rejects their representations, the motorist may appeal to the adjudicator.

Representations against parking and traffic enforcement should be made in writing, either by responding and signing the relevant section of the NtO, by signed letter, email, online form or in any other written form.

Successful representations on grounds that challenge the liability of the recipient need only result in the cancellation of the NtO. In such cases, the PCN remains a valid notice and may issue a fresh NtO if they have been supplied with suitable information to allow them to believe that liability has been transferred to a new person.

LBL will consider representations made on any grounds. Representations must be made before the end of a period of 28 days, beginning with the date on which the NtO was served.

LBL can apply discretion to late representations and it is advisory that where a vehicle owner provides a valid reason for the delay and has strong grounds for representations, then discretion should be applied.

LBL may disregard any representations which are received after the end of the period of 28 days, beginning with the date on which the relevant NtO was served. However, LBL will respond to such representations, explaining that they have been disregarded and the reason why.

LBL will consider representations and any evidence provided against an NtO and serve notice of its decision within a maximum of 56 days of the service of the representations.

If representations against an NtO are accepted, LBL will cancel either the PCN and the NtO or just the NtO (depending on the category of the grounds of representation) and inform in writing, the person who made the representation.

If representations are rejected, LBL must issue a Notice of Rejection (NoR) which should:

- state the reason for rejection, dealing with and answering all points raised in the representations and providing a clear explanation for the decision
- state the amount owed and timescales for payment
- state that a Charge Certificate may be served, unless before the end of the period of 28 days, beginning with the date of service of the NoR, either payment is received or an appeal is made to an adjudicator
- advise of general form and manner in which an appeal to the adjudicator should take
- indicate the nature of the adjudicator's power to award costs against either party to an appeal (the circumstances of which are explained on the adjudicators' forms and London Tribunals website).

It must be remembered that the NoR is a letter explaining that representations have not been accepted and should not be, or appear to be intimidating.

An appeal application form must be included with each NoR. This is to allow the appellant to attempt to establish a ground at appeal stage.

As requested by London Tribunals, LBL will complete the 'official use' box on the back of the appeal application form with the name of the person that the NoR was sent to, the relevant PCN number(s), the vehicle registration mark and the date of rejection, to assist in processing the appeal.

If out-of-time representations have been disregarded, it is not necessary to send an appeal application form or to explain the appeals process.

London Tribunals allow for appeals to be made online and therefore, authorities may issue verification codes to those appellants wishing to make online appeals.

A Charge Certificate may be served unless an appeal has been made to the adjudicator or the penalty charge paid. Appeals should be made to the adjudicator before the end of the period of 28 days, beginning with the date of service of the NoR, although the adjudicator has the discretion to accept out-of-time appeals.

LBL will be informed by London Tribunals if late appeals are to be considered in the appropriate circumstances and therefore, they should take steps to cancel any Charge Certificate that may have been issued.

APPEALS

The Schedule to The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 provides the framework for the process and procedure governing parking appeals in London.

If an authority rejects a formal representation, the person who has made the representation has a right to appeal to an adjudicator within the timescales previously outlined above. The grounds for appeal are the same as those identified in **Part 2, Paragraph 59** for Formal Representations, **Part 2, Paragraph 82** for Representations against Clamped Vehicles and **Part 2, Paragraph 83** for Representations against Removals.

Following the notification of an appeal, the regulations require that authorities in every case, send London Tribunals:

- a copy of the PCN
- a copy of the original representations and
- a copy of the NoR

In addition to the evidence required by the regulations, authorities should also send:

- a case summary outlining the details of the case
- a copy of all other correspondence relating to the PCN

- a copy of CEO's pocket book (or equivalent electronic version)
- details of signing and road markings and the hours of operation
- a summary of the relevant TMO
- evidence to show that the appellant is the person liable for the penalty charge. This must make clear whether the appellant is the registered keeper or someone else whom the authority alleges is the owner. In the latter case, the authority must include evidence to show why they believe the appellant is the owner – *this is not necessary for clamping and removal cases*

If appropriate and depending on the circumstances of the case, authorities should also send:

- records of meter/pay and display maintenance/fault checks carried out to verify the meter/pay and display was in operation and accurate
- suspension records: dates of advance warning (if any), start and end of suspension etc
- statement from the CEO
- details of ownership enquiries: when NtOs sent, replies received etc, DVLA enquiries etc
- details of permits: type of permit, when issued, expiry date etc
- clamping: time of clamping, time of PCN issue and fee paid, time of declamping etc
- removal: time of PCN issue, time of removal, time vehicle received at pound, time collected from pound and fee paid etc

This list is not exhaustive. Authorities need to send sufficient evidence to prove their case and therefore have to consider what may be necessary in each particular case.

Local authorities are able to access listings of new appeals, outcomes of appeals and details of out-of-time appeals on the London Tribunals' Appeals Portal

Authorities must make sure that all necessary information is supplied to London Tribunals as soon as possible after it is requested and always by the specified deadlines. They should also ensure that all information and documentation should reach the London Tribunals service five calendar days prior to the scheduled hearing date and a copy should be sent to the appellant at the same time. Similarly, authorities should receive from the Tribunals service, a copy of any information or documentation submitted by the appellant.

The appellant can request that any appeal hearing is held in person or that the hearing is heard in their absence (a postal appeal). Authorities may send representatives to appeal hearings if they wish.

Should an appellant send an appeal to an authority by mistake, it should be forwarded immediately to the London Tribunals service.

Decisions made by adjudicators should normally be considered as final and any directions given by adjudicators must be complied with immediately. Although the regulations do allow for reviews of decisions to be requested, the grounds for these are often quite limited.

In general, a review should only be requested where fresh evidence has become available, which was not available at the time of the original hearing. No further challenges can be made other than on a point of law, through an application to the High Court for judicial review.

If an adjudicator allows an appeal, he/she may make such directions to the authority as he/she feels appropriate. Usually this will be to cancel the PCN and NtO and refund any sums paid in relation to the penalty charge.

CASES REFERRED BACK TO THE AUTHORITY BY THE ADJUDICATOR

An adjudicator may only allow an appeal if one of the statutory grounds applies. Where a contravention has taken place but the adjudicator feels that the authority should have used its discretion to cancel the NtO, the adjudicator may refer the case back to the authority to reconsider. This power covers appeals against the clamping or removal of a vehicle, as well as those against NtOs.

Such cases should be directed to Chief Executive Office to ensure that proper consideration is given of the facts presented. It should not be dealt with by the same person who considered the original representation.

A decision must be reached within the period of 35 days, beginning with the date on which the direction was given. If the authority does not reach a decision within this period, it is deemed to have accepted the adjudicator's recommendation and must cancel the NtO. Where it does not accept these recommendations, it must notify the adjudicator and the appellant of the reasons for its decision before issuing the Charge Certificate.

If the penalty charge is not paid after a period of 28 days, beginning with the date on which the authority notified the appellant that it does not accept the adjudicator's recommendation, the authority may issue a Charge Certificate.

If the authority decides to accept the recommendation of the adjudicator, it must cancel the NtO without delay and refund any sums paid. Refunds must be made within 35 days of the adjudicator's direction.

CHARGE CERTIFICATES

The Charge Certificate informs the vehicle owner that the penalty charge has increased and action will be taken through the County Court if it is not paid before the end of the period of 14 days, beginning with the date on which the certificate is served. The current applicable surcharge in London has been set at 50%.

A Charge Certificate may be served by an authority if the following situations apply:

- the penalty charge has not been paid and no representations have been made to the authority before the end of a period of 28 days, beginning with the date the NtO was served (an allowance of 35 days is recommended)
- where representations have been rejected and neither full payment nor an appeal to the adjudicator has been made before the end of a period of 28 days, beginning with the date on which the NoR was served (an allowance of 35 days is recommended)
- where full payment has not been made before the end of a period of 28 days, beginning with the date on which the adjudicator's decision rejecting the appeal was served on the appellant (an allowance of 35 days is recommended)
- where full payment has not been made following a period of 14 days, beginning with the date on which a withdrawal of an appeal was made by the appellant (an allowance of 21 days is recommended)

A Charge Certificate must not be issued until all processes have been completed. If an authority issues a Charge Certificate before an appeal is decided, the adjudicator may then allow the appeal on the grounds of procedural impropriety. In all cases, if a part payment has been made within the timescales mentioned, a Charge Certificate may be issued in respect of the outstanding balance.

The penalty charge cannot be increased until the Charge Certificate is issued.

If a penalty charge has not been paid 14 days after the Charge Certificate has been served, the authority may apply to the TEC² at Northampton County Court to recover the increased charge, as if it were payable under a County Court order.

DEBT RECOVERY AND WITNESS STATEMENTS

The TEC² processes requests LBL to register Charge Certificates and requests to enforce orders to recover unpaid penalty charges. A Code of Practice produced by the TEC² for authorities outlines the correct procedures where penalty charges have not been paid following the service of a Charge Certificate. This code is issued to all authorities who register their intention to enforce PCNs in accordance with Part 75 of the Civil Procedure Rules, its practice and directions.

Where a Charge Certificate remains unpaid before the end of the period of 14 days, beginning with the date on which the Charge Certificate is served, the enforcement authority may, if a County Court so orders, recover the increased charge as if it were payable under a County Court order. A fee of £8 is payable for the registration of each Charge Certificate. Once registered, the TEC² will send the authority a sealed authorisation to issue an Order for Recovery of Unpaid Penalty Charge (Parking) – Form TE3 (**see Appendix 1, Sample Document 1.16**) for the outstanding amount. This will include the outstanding penalty charge, the registration fee and any costs awarded by the adjudicator, if applicable.

It is recommended that the authority should send an Order for Recovery of Unpaid Penalty Charge within 7 days of receiving the authority from the TEC². The TEC² allows 35 days from the acceptance of the request until the last day an in-time Witness Statement can be processed. The date is set on the order but can be taken to be 21 days from the service order for the recipient to either pay the amount outstanding or send a Witness Statement to the TEC² refuting the need to pay the penalty charge and that the registration should be revoked.

The Witness Statement / Stat Dec can be made on one of the following grounds:

- that the PCN has been paid in full
- that the NtO/Regulation 10 PCN was not received
- that representations were made to the authority concerned, within the stipulated 28 day period but no NoR was received
- that an appeal was made to an adjudicator against the authorities' decision to reject the representations but no response to the appeal was received

A valid Witness Statement / Stat Dec automatically results in an order issued by the TEC² that revokes the Order for Recovery of Unpaid Penalty Charge and cancels the Charge Certificate, as well as the NtO if submitted on the grounds that the NtO was not received.

Where the recipient claims that the penalty charge was paid or representations were made to the enforcement authority about the penalty charge and no NoR was received, the authority should refer the case to a parking adjudicator who may give such direction as he/she considers appropriate. However, depending on the circumstances of the case (e.g. the grounds and case history), there may be scope for the authority to resend the NoR.

If the Witness Statement / Stat Dec indicates that the motorist did not receive the NtO, the NtO is also deemed to have been cancelled and the authority may serve a fresh NtO. To prevent abuse of the Witness Statement process, it is advisable that a second NtO should be served by recorded delivery (or another means where delivery can be demonstrated), so that a further Witness Statement cannot legitimately be made for the same reason. In the case of any other Witness Statement, the matter should be referred to the court if a challenge is sought. Should a motorist send a Witness Statement to an authority by mistake, it should be forwarded immediately to the TEC².

Where the recipient claims that he/she appealed to the parking adjudicator against the authority's decision to reject the representation but received no response to the appeal, the authority must refer the case to a parking adjudicator, who may give such direction as he/she considers appropriate.

Authorities should note that some of the information contained may change following any review of Part 75 of the Civil Procedure Rules.

OUT OF TIME WITNESS STATEMENTS / STAT DEC

If the motorist does not make a Witness Statement / Stat Dec within the statutory time scale (35 days from the acceptance of the registration request), they may apply for an extension of the time allowed for making a Witness Statement / Stat Dec by completing 'An Application to file a statement out of time/extension of time'. The Respondent must state the reason they are filing outside of the original timescale.

The Out of Time Witness Statement / Stat Dec is sent by the motorist to the TEC² for consideration by an officer of the Court and the TEC² will make a decision whether to refuse or allow the submission.

All Authorities are notified electronically through CJSM (Criminal Justice Secure Email) accounts of out of time Witness Statement / Stat Dec being received. At which point, PCN progression must remain on hold pending the outcome. If the case is at a Certified Enforcement Agents (CEA), enforcement action must be put on hold pending the resulting order.

The emailed notification will confirm the response deadline if the authority wish to oppose the submission (that allows 21 days). The out of time submission will follow in the post. The authority has the opportunity to oppose the out of time submission and can submit a response to the TEC² for consideration (usually in the form of a Statement of Truth). If the authority does not issue a challenge, the TEC² will issue a revoking order in default.

If the authority chooses to oppose an out of time Witness Statement, a Statement of Truth is sent to the TEC² for consideration by a Court Officer and this must be done within the 21 day timescale. A copy of the Statement of Truth should also be sent to the deponent (the person who submitted the out of time Witness Statement). The Court Officer will make a decision, either refusing or accepting the out of time submission and either a refusal notice or a revoking order will be issued as a result. In the event the submission is refused, PCN progression can continue including post warrant enforcement.

N244 PROCESS

Following the result of an Out of Time Witness Statement Stat Dec, either party can submit to the TEC² an application to set aside the decision of the Court Officer by completing an N244 Application Notice.

Either party has 14 days to file an N244 application with the TEC². However, the TEC² may accept N244 applications outside the 14 day time period if a good reason for late submission is given. Upon notification through the CJSM account of the submission of an N244 application, PCN progression (including post warrant enforcement) should be put on hold.

Either party can apply to have the application considered either with or without a hearing (at a cost of £100 or £255 respectively). If the application is without a hearing, the case will be considered by a different Judge (District or Circuit) at Northampton County Court. If the application is with a hearing, the case is transferred out to a County Court local to the Defendant (the motorist) and listed for hearing. The applicable County Court will then write to both parties notifying them of the hearing date and time.

At either hearing, the District Judge will consider the case presented by both parties, either in writing or in person. Where written representations are made, these should be sent to the other party in advance of the hearing. A decision will then be made on the case. The Court will issue an order to both parties and this should then be sent to the TEC² (in the event of an application with a hearing) so that the appropriate subsequent order can be produced.

If the Court that considers the application is not the TEC², the resulting order will either allow the Witness Statement out of time or strike out the application. If the TEC² consider this, they will either issue a refusal notice or a revoking order directly. Subsequent applications can be made by either party.

WARRANT OF CONTROL AND CERTIFIED ENFORCEMENT AGENTS (BAILIFFS)

Where an Order for Recovery of Unpaid Charges has been served and the recipient has either failed to pay the penalty charge or to complete the Witness Statement, the authority can ask the TEC² for authorisation to prepare a Warrant of Control (the warrant). This authorises a CEA to seize and sell goods belonging to the recipient to the value of the outstanding amount and costs of enforcing the warrant.

The authority can ask the TEC² for authorisation to prepare a Warrant of Control if the following criteria have been met:

- 35 days have elapsed since the registration request was accepted
- full payment has not been received
- no Witness Statement / Stat Dec has been filed
- no time extension for making a Witness Statement / Stat Dec has been approved
- the recipient lives in England or Wales

The authority must produce a warrant within seven days of receiving the authorisation from the TEC². A copy of the warrant should be given to the CEA and must be made available for viewing by the debtor when the CEA is carrying out their duties. This copy may be a hard paper copy or produced and sent electronically.

If the address on the warrant is incorrect and differs from that where the CEA seeks to enforce, the authority would need to get the warrant resealed. This requires the TEC² to reissue the warrant – with the same expiry date – for the new address.

The Warrant of Control has a lifespan of one year and cannot be reissued. If the authority has failed to recover the charge by means of a warrant within this period of time and wishes to pursue this matter further, they may seek an extension of the warrant under the Tribunals, Courts and Enforcement Act 2007. The TEC² would need to be approached regarding any preparation of another warrant.

A motorist's credit rating will not be affected by enforcement proceedings, as the debts will not be entered onto the Registry of County Court Judgements either when the case is at the TEC² or transferred out to another County Court.

CEAs are acting on behalf of the local authority. The authority remains responsible and accountable for CEAs working on their behalf.

CEAs are obliged to follow the code set out in Part 3 and Schedule 12 of the Tribunals, Courts and Enforcement Act 2007 and the associated regulations.

Local authorities are encouraged to have regard to the good practice set out in the Taking Control of Goods Regulations, National Standards 2014 and the Guidance to Local Councils on Good Practice in the Collection of Council Tax Arrears (June 2013).

SERVICE OF NOTICES

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 states that any notice (not including a Regulation 9A PCN) or Charge Certificate may be served by first class post but not second class post. Where the person on whom it is to be served is a corporate body, it is duly served if it is sent by first class post to the secretary or clerk of that body. Service of a notice or Charge Certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to be on the second working day after posting. Full details defining the working day can be seen in the above regulations.

At all stages, LBL will take all reasonable steps to ensure that the appropriate notices are, in fact, served on the person to whom they are addressed. If the authority believes that service has not taken place then enforcement action cannot proceed. It is therefore important to have procedures in place for dealing with returned (undelivered) post as items that have not been served.

It is recognised that there will be cases where service is not easy. These include cases where service is refused or where the keeper cannot be identified. Where service is denied or refused, the authority should consider taking other steps, such as hand delivery, to give a higher degree of likelihood of service. CEAs may also be able to help in this area.

Where the DVLA does not have information on the keeper, it may be that other sources of information may help. The TMA 2004 regulations only make the registered keeper, the presumed keeper and if the authority has better information, this can supplant any DVLA files. Such information may come from resident parking permit applications, CEAs or neighbours (subject to any data protection limitations). Authorities should use all available avenues to identify a keeper, while taking care not to enforce against an innocent party, bearing in mind the possibility of a vehicle being cloned or something similar.

It may be the case that some keepers cannot be traced. In these circumstances, the authority should consider writing off the penalty as a bad debt (subject to internal rules about writing off debt), rather than keeping such PCNs open indefinitely.



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