

Appendix B

CIVIL PARKING ENFORCEMENT DISCRETION POLICY (Version 3)

TRAFFIC MANAGEMENT ACT 2004, Section 80

Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

THIS DOCUMENT CONTAINS:

1. Policy Statement of South Essex Parking Partnership, Chelmsford City Council and Essex County Council on Civil Parking Enforcement.
2. Types of Appeals (Representations).
3. List of Standard Contravention Codes.
4. Statutory Grounds under which a Formal Representation may be made.
5. Detailed examples of Representations on specific grounds.
6. Details of the Independent Adjudication Service.

This information can be obtained in different formats. If you would like a translated version in ethnic minority languages please contact 01245 606710.

POLICIES SET OUT IN THIS DOCUMENT PROVIDE GUIDANCE ONLY

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

STATEMENT REGARDING THE ENFORCEMENT AUTHORITY

For on-street parking contraventions

The Penalty Charge Notice is issued by the South Essex Parking Partnership as agents for the enforcement authority, Essex County Council. The South Essex Parking Partnership is responsible (under agency arrangements with Essex County Council) for the enforcement of on-street parking restrictions within the boroughs / districts & city of Chelmsford, Brentwood, Basildon, Maldon, Rochford and Castle Point.

For off- street parking contraventions

Where the Penalty Charge Notice is issued in a public car park within the borough of Chelmsford, the enforcement authority is Chelmsford City Council.

Where this Penalty Charge Notice is issued in the borough of Castle Point or Basildon the enforcement authority is Castle Point Borough Council or Basildon Borough Council with Chelmsford City Council acting as its agent under agency agreement

The Joint Committee of the South Essex Parking Partnership has appointed Chelmsford City Council as the lead authority and all correspondence relating to a penalty charge notice will be directed to Chelmsford City Council.

For the purpose of this document reference to the South Essex Parking Partnership and Chelmsford City Council will be noted as the Council / Partnership

How to contact the South Essex Parking Partnership and Chelmsford City Council on parking issues

**Address: Parking Services
Chelmsford City Council
Civic Centre
Duke Street
Chelmsford
Essex
CM1 1JE**

Tel: 01245 606710

E-mail: parking@chelmsford.gov.uk

NB: Representations (appeals) against the issue of any Penalty Charge Notice issued by the South Essex Parking Partnership for on-street contraventions and Chelmsford City Council for off- street contraventions will only be accepted if made in writing, within the legally prescribed time, and by the person or organisation entitled to make the representation.

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Section 1

INTRODUCTION

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

This is consistent with current best practice nationally and aims to provide clarity, consistency and transparency within the enforcement process and compliance with the aspirations of the Traffic Penalties Tribunal (TPT) and the Local Government Ombudsman.

What is important about these policies is that they represent a foundation upon which fairness, openness, transparency 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 the Partnership / Council must not be unduly rigid in their application.

The policies address the following:

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

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

These policies will be subject to ongoing review.

Policy Statement of the South Essex Parking Partnership, Essex County Council and Chelmsford City Council on Civil Parking Enforcement

This Policy Statement is effective from 1st April 2011

The South Essex Parking Partnership, Chelmsford City Council and Essex County Council are committed to making sure that it provides Equality of Opportunity in how its services are delivered. This commitment has been translated into its Core Values by ensuring that different groups and individual needs are reflected in the delivery of services.

The staff of Chelmsford City Council will offer all necessary assistance to any person to ensure that they are aware and can avail themselves of all services and rights due to them.

The adoption of Civil Parking Enforcement within the Boroughs / Districts & City of Chelmsford, Brentwood, Basildon, Maldon, Rochford and Castle Point will assist in meeting the Partnership's / Council's Parking Control Objectives:

1. To maintain and, where possible, improve the flow of traffic thereby making the Partnership's area a more pleasant and environmentally safe place in which to live and to visit.
2. To improve the quality and accessibility of public transport by discouraging the use of cars where road conditions and public transport facilities justify this. Once again encouraging a more environmentally friendly lifestyle.
3. To take into account the needs of local residents, shops, businesses and visitors thereby sustaining the Partnership's area economic growth.
4. To actively support the needs of disabled people bearing in mind that, in some cases, they are unable to use public transport and are entirely dependent upon the use of a car. This will ensure that people with disabilities are able to have equal access to all facilities within the Partnership's area.
5. To actively discourage indiscriminate parking that causes obstruction to other motorists, pedestrians, cyclists and people with disabilities. This will ensure that the Partnership's area remains accessible to all, equally and safely.
6. To support the introduction of and encourage the use of park and ride schemes.

This Policy shall be regularly reviewed and will take into account:

- 1. The existing and predicted levels of demand for parking both on and off-street.**
- 2. The availability and pricing of both on and off-street parking through the development and maintenance of safe and high quality parking provision.**
- 3. The nature and extent of on-street parking restrictions.**
- 4. The accuracy and quality of existing signs and plates.**
- 5. The levels of compliance that the South Essex Parking Partnership and Chelmsford City Council considers to be acceptable and the level of enforcement necessary to achieve them.**
- 6. The views of the public who shall be actively consulted on all matters relating to the extension of parking restrictions.**
- 7. The views of Essex Police and Essex County Council in relation to road safety and transportation matters generally.**
- 8. The provision of suitable parking facilities for disabled people.**
- 9. The provision of suitable parking facilities for cyclists and motorcyclists.**
- 10. The Council's / Partnership's overall aims with regard to the environment, the fear of crime within the Boroughs / Districts and the sustained economic growth of the Boroughs / Districts.**

Section 2

Types of Appeals

Under the terms of the Traffic Management Act 2004 (TMA) any appeal made to the South Essex Parking Partnership or Chelmsford City Council is termed as a “Representation” and will either be:

- 1. Informal Representation:** This refers to any representation made before the Council / Partnership issues the Statutory Notice¹ to Owner to the person who is the registered owner / keeper at DVLA or the person that Chelmsford City Council or the South Essex Parking Partnership believes to be the owner / keeper at the time of the alleged contravention.

The Informal Representation may be made by any party directly concerned with the vehicle who may not be the keeper, i.e. the driver at the time of the alleged contravention.

An Informal Representation should be made where the appellant believes that there are compelling reasons why the Penalty Charge Notice should not have been issued. These may be for any reason and any mitigating circumstances will be considered by the Council / Partnership. Representations should be accompanied by any supporting evidence and will be considered against the evidence collected by the Council's / Partnership's Civil Enforcement Officer at the time of the alleged contravention, which will include contemporaneous notes, both written and electronic, as well as digital photographs.

If made within 14 days of service of the Penalty Charge Notice, thereby during the period in which the 50% discount for payment applies, the discount period will be “frozen” so as not to disadvantage the appellant. Should the representation be rejected, the appellant will be notified in writing by the Council / Partnership and the discount period recommenced which will apply for 14 days from the date of the written Notice of Rejection.

Any informal representation received after the discount period has expired will be considered but the discount period will not be recommenced and the full penalty amount will be payable should the representation be rejected.

2. **Formal Representations:** This refers to a representation made by the registered owner / keeper of the vehicle, according to DVLA, or the person(s) believed to be the registered owner of keeper by Chelmsford City Council or the South Essex Parking Partnership.

This person(s) shall be the person(s) who has received the Statutory Notice to Owner (see footnote¹ below) from the Council / Partnership and the representation is made no later than the 28th day of service of the Notice.

Formal Representations must be made on one of the grounds specified within the Statutory Notice to Owner (See Section 4 of this document). However, where these are not appropriate, the Council / Partnership will consider any mitigating circumstances and these should be described in full by the appellant and, in all cases, any supporting evidence included with the representation.

If the Formal Representation is rejected by the Council /Partnership, the appellant will be notified in writing by the Council / Partnership who will issue a "Formal Notice of Rejection of Representation" which will give reasons why the representation was rejected.

The Formal Notice of Rejection will allow 28 days for the penalty charge to be paid or an appeal to the Independent Adjudicator to be made (see point 3 below). Failure by the keeper to either pay the penalty or to make an appeal to the Independent Adjudicator within 28 days will result in a Charge Certificate being issued. This will have the effect of increasing the outstanding penalty amount by 50%. After the issue of the Charge Certificate no further appeal will be accepted.

Failure to pay the increased charge could result in the Council / Partnership seeking a County Court Order for Recovery, which will add a further £7 to the outstanding amount. Failure to pay at this stage will then result in a Court Warrant of Execution being obtained and passed to Bailiffs for recovery. Bailiffs will add their fees to the outstanding debt which can be significant.

3. **Appeal to the Independent Adjudication Service:** Full details of how to appeal to the Independent Adjudicator (The Traffic Penalty Tribunal) will be included with the Formal Notice of Rejection of Representation sent by the Council / Partnership. If this is not received please contact the Council / Partnership immediately. Please see Section 6 of this document.

Footnote 1 A Statutory Notice to Owner (NtO) will be sent to the person(s) that the DVLA states was the registered keeper at the time of the alleged contravention, or the person(s) that the Council believes to be the owner / keeper. This will be done after the Penalty Charge Notice remains unpaid for a period of 28 days.

Section 3

LIST OF STANDARD CONTRAVENTION CODES (V6.5)

On-Street

| Code | General suffix(es) | Description | Differential level | Notes |
|------|--------------------|--|--------------------|--|
| 01 | eoyz | Parked in a restricted street during prescribed hours | Higher | Suffixes y & z for bbh only |
| 02 | aejo | Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force | Higher | |
| 04 | cs | Parked in a meter bay when penalty time is indicated | Lower | |
| 05 | cpsuv | Parked after the expiry of paid for time | Lower | |
| 06 | cipv | Parked without clearly displaying a valid pay & display ticket or voucher | Lower | |
| 07 | cmprsv | Parked with payment made to extend the stay beyond initial time | Lower | 'meter feeding' |
| 08 | c | Parked at an out-of-order meter during controlled hours | Lower | Electronic meters only |
| 09 | ps | Parked displaying multiple pay & display tickets where prohibited | Lower | Some boroughs only |
| 10 | p | Parked without clearly displaying two**** valid pay and display tickets when required | Lower | Some boroughs only |
| 11 | u | Parked without payment of the parking charge | Lower | |
| 12 | rstwxy | Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and display ticket issued for that place | Higher | |
| 13 | | ---- RESERVED FOR TfL USE (LOW EMISSION ZONE) ---- | n/a | |
| 14 | | Parked in an electric vehicles' charging place during restricted hours without charging | Higher | |
| 16 | bdhqstwxzy | Parked in a permit space without displaying a valid permit | Higher | Suffix "s" only for use where bay is completely non-resident |
| 17 | | ---- RESERVED FOR TfL USE (CONGESTION CHARGING) --- | n/a | |
| 18 | bcdhmpsv | Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited | Higher | |
| 19 | irswxyz | Parked in a residents' or shared use parking place or zone displaying an invalid permit, an invalid voucher or an invalid pay & display ticket | Lower | |
| 20 | | Parked in a loading gap marked by a yellow line | Higher | |
| 21 | bcdhjlmpqsuv | Parked in a suspended bay or space or part of bay or space | Higher | |
| 22 | cflmnopsv | Re-parked in the same parking place or zone within one hour* of leaving | Lower | |
| 23 | bcdfghjklprsv | Parked in a parking place or area not designated for that class of vehicle | Higher | |
| 24 | bcdhmpqrsv | Not parked correctly within the markings of the bay or space | Lower | |
| 25 | jn | Parked in a loading place during restricted hours without loading | Higher | On-street loading bays |
| 26 | e | Parked in a special enforcement area more than 50 cm [†] from the edge of the carriageway and not within a designated parking place | Higher | |
| 27 | jo | Parked in a special enforcement area adjacent to a dropped footway | Higher | |
| 30 | fnou | Parked for longer than permitted | Lower | |
| 31 | j | Entering and stopping in a box junction when prohibited | n/a | London only |
| 32 | jdtpw | Failing to drive in the direction shown by the arrow on a blue sign | n/a | Code specific suffixes apply. London only |

| | | | | |
|----|---------------|--|--------|--|
| 33 | jbcefgghikqrs | Using a route restricted to certain vehicles | n/a | Code specific suffixes apply. London only |
| 34 | j0 | Being in a bus lane | n/a | |
| 35 | | Parked in a disc parking place without clearly displaying a valid disc | Lower | |
| 36 | | Parked in a disc parking place for longer than permitted | Lower | |
| 37 | j | Failing to comply with a give way to oncoming vehicles sign | n/a | London only |
| 40 | n | Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner | Higher | |
| 41 | j | Parked in a parking place designated for diplomatic vehicles | Higher | |
| 42 | j | Parked in a parking place designated for police vehicles | Higher | |
| 45 | n | Parked on a taxi rank | Higher | |
| 46 | jn | Stopped where prohibited (on a red route or clearway) | Higher | |
| 47 | jn | Stopped on a restricted bus stop or stand | Higher | |
| 48 | j | Stopped in a restricted area outside a school when prohibited | Higher | |
| 49 | j | Parked wholly or partly on a cycle track or lane | Higher | |
| 50 | jlru | Failing to comply with a sign indicating a prohibited turn | n/a | Code specific suffixes apply. London only |
| 51 | j | Failing to comply with a no entry sign | n/a | London only |
| 52 | jgmsvx | Failing to comply with a sign indicating a prohibition on certain types of vehicle | n/a | Code specific suffixes apply. London only |
| 53 | j | Failing to comply with a sign indicating a restriction on vehicles entering a pedestrian zone | n/a | London only |
| 54 | j | Failing to comply with a sign indicating a restriction on vehicles entering and waiting in a pedestrian zone | n/a | London only |
| 55 | | A commercial vehicle parked in a restricted street in alleged contravention of the Overnight Waiting Ban | Higher | |
| 56 | | Parked in alleged contravention of a commercial vehicle waiting restriction | Higher | Non- overnight waiting restriction |
| 57 | | Parked in alleged contravention of a coach ban | Higher | Non- overnight waiting restriction |
| 58 | | Using a vehicle on a restricted street during prescribed hours without a valid permit | n/a | London Lorry Ban only |
| 59 | | Using a vehicle on a restricted street during prescribed hours in breach of permit conditions | n/a | London Lorry Ban only |
| 61 | 124cgj | A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways | Higher | Code specific suffixes apply. |
| 62 | 124cgj | Parked with one or more wheels on or over a footpath or any part of a road other than a carriageway | Higher | Code specific suffixes apply. |
| 63 | c | Parked with engine running where prohibited | Lower | This alleged contravention occurs in certain coach bays. |
| 67 | | ---- RESERVED FOR VEHICLE EMISSIONS ---- | n/a | |
| 68 | | ---- RESERVED FOR VEHICLE EMISSIONS ---- | n/a | |
| 99 | Jo | Stopped on a pedestrian crossing or crossing area marked by zigzags | Higher | Pedestrian Crossings |
| | | <ul style="list-style-type: none"> • = or other specified time • **** = or other number • † = or other specified distance | | |

Police Use Only

| | | | | |
|----|--|---|-----|-----------------|
| 64 | | Police removal following an accident | n/a | Police use only |
| 65 | | Police removal – illegally parked - red route | n/a | Police use only |
| 66 | | Police removal – illegally parked - non red route | n/a | Police use only |

Off-Street

| | | | | |
|----|------|--|--------|--|
| 70 | | Parked in a loading area during restricted hours without reasonable excuse | Higher | Off-street loading areas |
| 73 | u | Parked without payment of the parking charge | Lower | Off-street car parks |
| 74 | prs | Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited | Higher | Off-street car parks |
| 77 | | --- RESERVED FOR DVLA USE --- | n/a | |
| 80 | | Parked for longer than the maximum period permitted | Lower | Off-street car parks |
| 81 | o | Parked in a restricted area in a car park | Higher | Off-street car parks |
| 82 | puv | Parked after the expiry of paid for time | Lower | Off-street car parks |
| 83 | | Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock | Lower | Off-street car parks |
| 84 | | Parked with additional payment made to extend the stay beyond time first purchased | Lower | Off-street car parks |
| 85 | btrw | Parked in a permit bay without clearly displaying a valid permit | Higher | Off-street car parks |
| 86 | prs | Parked beyond the bay markings | Lower | Off-street car parks |
| 87 | | Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner | Higher | Off-street car parks |
| 89 | | Vehicle parked exceeds maximum weight or height or length permitted in the area | Higher | Off-street car parks |
| 90 | psv | Re-parked within one hour* of leaving a bay or space in a car park | Lower | Off-street car parks |
| 91 | cg | Parked in a car park or area not designated for that class of vehicle | Higher | Off-street car parks |
| 92 | o | Parked causing an obstruction | Higher | Off-street car parks |
| 93 | | Parked in car park when closed | Lower | Off-street car parks |
| 94 | p | Parked in a pay & display car park without clearly displaying two**** valid pay and display tickets when required | Lower | Off-street car parks |
| 95 | | Parked in a parking place for a purpose other than the designated purpose for the parking place | Lower | Off-street car parks |
| 96 | c | Parked with engine running where prohibited | Lower | Off-street car parks - this alleged contravention may occur in certain coach bays. |

* = Or other specified time

**** = or other number

Suffixes

General suffixes:—

- | | | | |
|--|-----------------------|------------------------------|----|
| a) temporary traffic order doctor's bay | b) business bay | c) coach parking bay | d) |
| e) double parked/obstruction hospital bay | f) free parking bay | g) motor cycle bay | h) |
| i) wrong type of voucher loading place | j) camera enforcement | k) ambulance bay | l) |
| m) parking meter pay & display | n) red route | o) blue badge holder | p) |
| q) market traders' bay | r) residents' bay | s) shared use bay | |
| t) voucher/P&D ticket used in permit bay voucher | | u) mobile phone parking | v) |
| w) wrong parking zone | x) incorrect VRM | y) obscured/illegible permit | |
| z) out of date permit | | | |
| 0) local buses / trams only | | | |

Footway parking only:—

- | | | |
|-------------------------|----------------------|--------------------------|
| 1) One wheel on footway | 2) Partly on footway | 4) All wheels on footway |
| c) on vehicle crossover | g) on grass verge | |

Moving traffic alleged contraventions only:—

32 d) proceeding in the wrong direction p) passing to the wrong side of the sign t) turning in the wrong direction w) one way traffic

33 b) buses only c) buses and cycles only e) buses, cycles and taxis only f) buses and taxis only g) local buses only h) local buses and cycles only i) local buses, cycles and taxis only k) local buses and taxis only q) tramcars and local buses only r) tramcars only s) tramcars and buses only

50 r) no right turn l) no left turn u) no U turn

52 v) all vehicles except non-mechanically propelled ones being pushed m) motor vehicles x) motor vehicles except solo m/cycles

s) solo motorcycles g) goods vehicles exceeding max gross weight indicated

Section 4

Statutory Grounds under which to make Formal Representations

Important Note

Although the following are the nine possible statutory grounds under which to make a formal representation as defined by the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, full consideration will be given and account taken of all formal representations received whether or not they fall within the description of “Statutory Grounds”. It is for this reason that a tenth ground, encompassing any other information the owner / keeper would like the Council / Partnership to consider is included. This tenth ground will be considered as “mitigation”.

The nine possible Statutory Grounds are:

- G1. That the alleged contravention did not occur:**
- G2. That the recipient of this Notice:**
 - i. never was the owner of the vehicle in question;**
 - ii. had ceased to be its owner before the date on which the alleged contravention occurred; or**
 - iii. became its owner after that date.**
- G3. That the vehicle has been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner:**
- G4. That the recipient of this Notice is a vehicle-hire firm and:**
 - i. the vehicle in question was at the material time hired from that firm under a hiring agreement; and**
 - ii. the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement.**
- G5. That the penalty charge exceeded the amount applicable in the circumstances of the case.**
- G6. That there has been a procedural impropriety on the part of the Enforcement Authority or its agent.**
- G7. That the Order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part VI of Schedule 9 to the 1984 Act applies, is invalid.**

- G8. That the Notice to Owner should not have been served because:**
- i. the penalty charge had already been paid in full.**
 - ii. the penalty charge had been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified in Paragraph 1(h) of the Schedule to the General Regulations.**

Where a Penalty Charge Notice has been served under Regulation 10 of the General Regulations because the Civil Enforcement Officer was prevented from serving the PCN on the vehicle by the actions of a third party:

- G9. The Civil Enforcement Officer was not prevented from serving the original Penalty Charge Notice (see footnote ¹ below).**

The 10th Ground – Mitigation:

- G10. MITIGATION: The Council / Partnership is required to use discretion when enforcing Penalty Charge Notices and will do so if genuine mitigating circumstances exist. If you feel that this is the case please provide full reasons why the Council / Partnership should consider cancelling the Penalty Charge Notice.**

Footnote ¹ - Only applies to Regulation 10 PCNs issued by post because the Civil Enforcement Officer was prevented from serving a PCN by the actions of another party.

Section 5

Detailed Examples of Representations on specific grounds*

*** These examples are for guidance only and the list is by no means exhaustive. We aim to give an indication as to how cases will be dealt with by the Council's / Partnership's officers and how representations should be made. In all cases representations should be an honest account of the appellant's position and should be accompanied by as much factual and supporting evidence as possible.**

The area of Parking Enforcement is very emotive but the Council / Partnership will not tolerate abusive, threatening or violent behaviour towards any member of its staff, whether it is verbal or physical (perceived or actual) and will take every action necessary to protect the interests of its staff.

G1 The alleged contravention did not occur:

G1.1 Where the motorist claims he/she was loading/unloading

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If evidence is available or provided to show:

Goods being delivered or collected were heavy, bulky or numerous and it would be unreasonable to expect them to be carried from a permitted parking place.

Loading/unloading activity was adjacent to the premises concerned.

Loading/unloading activity was timely (includes checking goods and paperwork), but not delayed by unrelated activity.

If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If on clearways;

On school zig-zag markings;

On bus stop clearways;

On Taxi ranks;

On Police bays;

Where loading is prohibited or where it was not taking place;

In car parks, if a valid pay & display ticket was not purchased or not clearly displayed as required.

G1.2 Where the motorist claims that a parking pay & display machine was faulty

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If service records confirm a fault or that the machine had been taken out of service at the time of the alleged contravention.

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.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If there was another ticket machine nearby that was working correctly at the time.

If there is no record of the machine being faulty or taken out of service.

If there is reasonable doubt because evidence confirms that other visitors had been able to purchase tickets during the relevant period.

G1.3 Where the motorist claims that the restriction is not clearly signed or marked

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If signs and/or markings are missing or unclear.

If signs and markings are inconsistent with each other and/or Traffic Order or legislation.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Order.

G1.4 Where the motorist was carrying out building works

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If evidence confirms that the motorist was simply loading/unloading (see policy G1.1 above)

If valid dispensation to park at the location in question had been issued and was on display in the vehicle.

If works are of a statutory nature or are exempted from restrictions by a Traffic Order or legislation

If it can be proven that works were an emergency,

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

G1.5 Where the motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver – NOTE: check if PCN was served by post)

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the Civil Enforcement Officer's pocket book and/or computer notes confirm that the vehicle drove away before a PCN could be served, i.e. PCN not handed to the driver or fixed to the vehicle (but see note above).

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Civil Enforcement Officer's notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle.

If the Enforcement Authority subsequently served a Regulation 10 PCN by post.

G1.6 Where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on the PCN which was issued

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

Following consideration of all available evidence:

If the motorist provides a copy of their vehicle excise licence (tax disc), which was valid at the time of the alleged contravention, and the serial number of which differs from the number noted by the Civil Enforcement Officer.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

Following consideration of all available evidence:

If the motorist does not provide a copy of their tax disc, after being given a further opportunity to submit such a copy.

Or

If the serial number on the copy tax disc provided by a motorist is identical to the serial number noted by the Civil Enforcement Officer.

Or

If there is no evidence or if the evidence presented does not support the claim or is inconclusive.

G1.7 Where the motorist claims that a valid authorisation to park had been issued

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If records show that the motorist holds a valid authorisation to park.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

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.

If the motorist did not park in accordance with the authorisation.

NB: A valid authorisation to park could be a pay & display ticket, permit, season ticket or dispensation.

G1.8 Where the motorist claims that a pay & display ticket was purchased and displayed

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the motorist produces a Pay & Display parking ticket that was valid at the time the Penalty Charge Notice was issued and the Civil Enforcement Officer 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 alleged contravention of this kind.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the motorist is unable to produce a valid pay & display ticket.

The Civil Enforcement Officer was unable to confirm that a face down ticket or a ticket that was displayed but concealed in some other way was seen.

The motorist has made a similar representation before and had a previous PCN cancelled after giving them the benefit of the doubt; or

The Civil Enforcement Officer noted that the motorist obtained their ticket from another motorist in the car park.

G2 That the recipient:

- **Never was the owner of the vehicle in question;**
- **Had ceased to be its owner before the date on which the alleged contravention occurred;**
- **Became its owner after that date;**

G2.1 Was never the owner of the vehicle in question

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the DVLA confirms that the motorist was the registered keeper of the vehicle at the time of the alleged contravention.

If the previous registered keeper provides proof that the motorist bought the vehicle before the alleged contravention, or the subsequent registered keeper provides proof that the motorist sold the vehicle after the alleged contravention.

If the motorist is proven to have hired the vehicle for the day on which the alleged contravention occurred and signed an agreement to take responsibility for PCNs incurred, subject to the time of hire (see policy G4 below)

G2.2 Had ceased to be its owner before the date on which the alleged contravention occurred

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the current registered keeper is able to provide proof that the vehicle was disposed of before the alleged contravention, i.e. a bill of sale, registration documents, insurance documents or a letter from the DVLA; and/or

If the current registered keeper is able to provide the full name and address of the person to whom they disposed of the vehicle.

ACTION - send a new Notice to Owner to the person named by the current registered keeper

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the current registered keeper is unable to prove that s/he neither disposed of the vehicle before the alleged contravention nor provides the name and address of the person to whom s/he disposed of the vehicle.

If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide.

G2.3 Became its owner after that date

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the current registered keeper is able to provide proof that the vehicle was purchased after the alleged contravention, i.e. an invoice, registration documents, insurance documents or a letter from the DVLA; and/or

If the current registered keeper is able to provide the full name and address of the person from whom they purchased the vehicle.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the current registered keeper is unable to prove that s/he neither purchased the vehicle after the alleged contravention nor provides the name and address of the person from whom they bought the vehicle.

If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide.

G2.4 Where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the alleged contravention

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

Only when a hire agreement exists (see policy G4 below).

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances because the registered keeper is always liable, including where the vehicle was left in the care of a garage.

G3 That the vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner

G3.1 Where the current registered keeper claims that the vehicle had been stolen

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the registered keeper provides a valid Police crime report reference number.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the current registered keeper is unable to provide any proof of theft.

If the Police crime report reference number provided by the current registered keeper does not exist or it does not match the theft or date of the theft alleged.

G3.2 Where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstances.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all circumstances because the registered keeper is always liable, save for when a hire agreement exists (see policy G4 below).

G4 That the recipient is a vehicle hire firm:

- **The vehicle in question was at the material time hired from that firm under a vehicle hiring agreement;**
- **The person hiring it had signed a statement of liability acknowledging his liability in respect of any PCN served in respect of any alleged contravention involving the vehicle.**

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the hire company is able to provide proof that the vehicle was hired at the time of the alleged contravention, i.e. a signed agreement.

If the hire company is able to provide the full name and address of the person to whom they hired the vehicle.

ACTION - send a new Notice to Owner to the person named by the hire company.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the hire company is unable to prove that it hired out the vehicle on the date of the alleged contravention nor provide the name and address of the person to whom it hired the vehicle.

If the person named by the hire company as the person to whom it hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the alleged contravention.

If the vehicle was being used as a courtesy car without an agreement signed to accept responsibility for Penalty Charge Notices issued.

G5 That the penalty charge exceeded the amount applicable in the circumstances of the case

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the PCN and/or Notice to Owner showed the incorrect amount of penalty charge, i.e. the wrong penalty charge band.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the PCN or Notice to Owner showed the correct amount of penalty charge.

G6 That there has been a procedural impropriety on the part of the enforcement authority

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If any requirements imposed by the TMA or the TMA Regulations in the relation to the imposition or recovery of a penalty charge have not been observed.

If any document has been served in advance of the time scale set out in the TMA regulations.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If all requirements imposed by the TMA or the TMA Regulations in the relation to the imposition or recovery of a penalty charge have been observed.

If all documents have been served in accordance with the time scale set out in the TMA regulations.

If the motorist merely considers the restrictions to be unfair.

G7 That the Order which is alleged to have been contravened in relation to the vehicle concerned is invalid

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the Traffic Order which prescribes the restrictions that the vehicle was parked in alleged contravention of was either not constructed correctly, i.e. is ultra-vires, or was not made correctly, i.e. not consulted on properly.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Traffic Order which prescribes the restrictions that the vehicle was parked in alleged contravention of was constructed and made correctly.

If the motorist merely considers the restrictions to be unfair.

G8 In the case where a PCN was served by post on the basis that a CEO was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle or the vehicle was driven away from the place in which it was stationary before the Civil Enforcement Officer had finished preparing the Penalty Charge Notice

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the Civil Enforcement Officer's notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle.

If the Civil Enforcement Officer's pocket book and/or computer notes did not 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.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Civil Enforcement Officer's pocket book and/or computer notes confirm that the vehicle drove away before a PCN could be served, i.e. PCN not handed to the driver or fixed to the vehicle.

G9 That the NtO should not have been served because the penalty charge had already been paid in full or by the amount reduced by any discount set within the period set

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the penalty charge amount had been paid in full.

If the penalty charge amount, reduced by any discount set within the period set, had been paid in full.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the penalty charge amount had not been paid in full.

If the penalty charge amount, reduced by any discount set within the period set, had not been paid in full.

G10 Any other information that the motorist / vehicle owner wants the Council to take into consideration

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

The decision whether or not a Penalty Charge Notice should be cancelled will only be taken following very careful consideration taking into account all of the evidence available.

MITIGATING CIRCUMSTANCES

MC1 Where the motorist claims to have become unwell while driving

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the motorist provides proof of a medical condition, temporary or permanent, that is consistent with the conditions described.

When the notes made by the Civil Enforcement Officer support the motorist's representations.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the motorist cannot provide some proof of a medical condition, temporary or permanent, consistent with the conditions described.

Or, where other evidence contradicts the motorist's claims.

MC2 Where the motorist claims to be a doctor, nurse or health visitor attending a patient

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

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

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

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

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

If the 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.

MC3 Where the motorist stopped to use the toilet

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS

In all other circumstances.

MC4 Where the motorist stopped to collect (prescribed) medication from a chemist

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

Only in the most grave, urgent and exceptional of circumstances and the use of a 'legal' parking place would have caused an unacceptable delay.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In any lesser circumstances.

MC5 Where the motorist was a patient visiting a doctor's surgery

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP 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.

MC6 Where the motorist claims to have been recently bereaved

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If no evidence exists to the contrary, taking into account the sensitivity of this issue on first occasion.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

Only if there is a significant reason to doubt the sincerity of representations, i.e. the Civil Enforcement Officer's notes indicating that the motorist was going about a normal day, say, shopping or working, or the bereavement considered to be a long time ago.

MC7 Where the motorist was delayed in returning to their vehicle and parking time purchased had expired

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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.

If motorist's vehicle had broken down (subject to concurrence with policy MC25 below).

If the motorist was unable to drive, since parking the vehicle.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop.

If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or commuting.

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.

Please note, before a PCN will be issued, motorists are given a 10 minute grace period after the parking time purchased has expired.

MC8 Where the motorist "fed" a meter or pay & display machine by buying subsequent time to park in the same place or returned to the same place within a specified and prohibited time period

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstances.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the motorist overstays initial period of time purchased or returns within a period of 'No return'.

MC9 Where the motorist left the vehicle parked without a valid ticket on display to obtain change

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the motorist had not left the car park, or on-street pay and display area, while obtaining change and a ticket was purchased.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Civil Enforcement Officer's notes indicate that the motorist returned to their vehicle, having completed their purpose for parking, while the PCN was being issued, i.e. carrying shopping, or had left vehicle in car park, or on-street pay and display area, while obtaining change (5 minutes will normally be allowed to obtain change in an off-street parking place).

MC10 Where the motorist claims to have been unaware of charges or restriction in the car park relating to vehicle's class or weight.

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If reference to restrictions on tariff board(s) is incorrect or missing.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC11 Where the motorist claims to have been unaware of recent rise in tariff

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If statutory notices were not erected in accordance with procedural regulations.

If revised tariff is not on tariff board(s)

If a PCN was issued during the 7 day grace period offered by the Council from tariff change implementation date

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If statutory notices were erected in accordance with procedural regulations and tariff board(s) were correct and the period exceeds any grace period given

MC12 Where the motorist had parked with one or more wheels outside of a marked bay in a car park

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

Only in the most exceptional of circumstances that were outside the motorist's control and are supported by incontrovertible evidence.

Otherwise, in no circumstances.

THE COUNCIL/ PARTNERSHIP MAY REJECT REPRESENTATIONS

When clear and incontrovertible supporting evidence (photographs/sketch plan) is available.

MC13 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

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

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

If the motorist was parked on a waiting restriction beyond the 3-hour time limit permitted by the Blue Badge Scheme, or on another restriction for which the Blue Badge does not provide an exemption.

MC14 Where the motorist claims to have been unaware of the existence of a controlled parking zone

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If it can be established that the signing and marking of the CPZ is at fault, see policy G1.3 above.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC15 Where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents permit, business permit or visitors permit

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the renewal of the authorisation was delayed by the Council's / Partnerships administrative processes.

If it can be established that other reasonably unforeseen circumstances delayed the renewal of an authorisation to park, e.g. sickness on the part of the applicant or a postal dispute/delays (supported by appropriate evidence).

In the case of season tickets and residents/business parking permits only, if the authorisation had expired by less than 14 days.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

In the event of more than one vehicle registration included on season ticket or permit, subsequent production of the season ticket will not necessarily cause automatic cancellation of the PCN as the season ticket may have been used on the other vehicle.

MC16 Where the motorist is parked in alleged contravention of a waiting/parking prohibition whilst displaying a resident's or visitor's permit.

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstances.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

On all occasions.

MC17 Where the motorist is a new resident within a controlled parking zone and had parked in a resident's bay without displaying a valid resident's permit

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstance

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

On all occasions

MC18 Where the motorist had parked incorrectly in a controlled bay on-street

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If it can be established that the motorist was genuinely loading or unloading, subject to compliance with policy G1.1 above.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

On all occasions.

MC19 Where the motorist assumed that they were entitled to "a period of grace" before the PCN was issued

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the parking time purchased had expired and a PCN was issued within 10 minutes of the expiry time.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the parking time purchased has expired and a PCN was issued after 10 minutes of the expiry time.

MC20 Where the motorist claims they were attending a funeral

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If no evidence exists to the contrary, taking into account the sensitivity of this issue.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

Only if there is a significant reason to doubt the sincerity of the representations. (The Council / Partnership will cancel a penalty issued for parking contrary to a yellow line waiting restriction, a loading restriction or stopping restriction).

MC21 Where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings

THE COUNCIL / PARTNERSHIP 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.

THE COUNCIL / PARTNERSHIP 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 Officer's 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. (i.e. the lines were clearly visible five yards further on).

If the location of the alleged contravention was unlikely to be subject to the natural conditions described by the motorist, i.e. it was under cover.

MC22 Where the motorist claims that their vehicle had broken down

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP 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 of the motorist, i.e. the vehicle had not been properly maintained, had run out of petrol or water or a similar reason.

If the Civil Enforcement Officer's notes contradict the motorist's version of events.

MC23 Where the motorist claims that they were attending an emergency or another vehicle that had broken down

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the motorist is able to provide reasonable proof of the emergency, i.e. a credible report of an accident or incident, or that they were attending to another vehicle that had broken down.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the motorist is unable to provide evidence of any kind that they were attending an emergency or another vehicle which had broken down.

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.

MC24 Where the motorist claims to have put money into the wrong ticket machine

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If it is agreed that the position of the ticket machine used by the motorist is likely to cause confusion.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the ticket machine used by the motorist is positioned in such a place that confusion is not likely.

If the motorist has had representations accepted for a similar alleged contravention previously.

MC25 Where the vehicle in question was on Police, fire brigade or ambulance duties

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If a senior officer of the service concerned supports the representations and there is no reason to doubt that the vehicle was engaged on operational activities.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC26 Where the motorist claims to have been collecting or depositing monies at a bank

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the procedure explained in the motorist's representations is consistent with the allowance for loading and unloading, see Policy G1.1 above.

Or

If specific arrangements have been agreed.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC27 Where the motorist claims to have been unaware of a temporary parking restriction or special event restriction

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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.

If the process followed to make the temporary order was defective in some way.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Civil Enforcement Officer's notes/photographs confirm that the vehicle was parked in an area restricted by the Temporary Order or Notice, and that appropriate signing was in place and clearly visible.

MC28 Where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time, e.g. is living abroad or is in prison

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstances.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

On all occasions.

MC29 Where the registered keeper liable for payment of the PCN is said to have died

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

Where the circumstances can be confirmed.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

Only if there is a significant evidence to doubt the sincerity of the representations.

MC30 Where the vehicle driven by the motorist is diplomatically registered

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle.

All un-recovered penalty charges from keepers of diplomatically registered vehicles: the information concerning these debts should be passed on to the Foreign and Commonwealth Office.

[Source – Secretary of State’s Traffic Management and Parking Guidance, Vienna Convention on Diplomatic Relations, Diplomatic Privileges Act 1964 and Government Report on Review of Vienna Convention...]

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In no circumstances.

MC31 Where the motorist received a Fixed Penalty Notice (FPN) from a Police Officer or Civil Enforcement Officer when parked in the same location

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

To prevent ‘double jeopardy’, if confirmation provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC32 Where a Council Officer or Member parked in alleged contravention and claims to have been on Council business

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the Officer was carrying out emergency or other statutory work.
If the Member was carrying out official Council business

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If it can be established that the Officer/Member could have reasonably parked elsewhere.

MC33 Where the motorist stopped to drop off someone

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If the circumstances are seen by the Civil Enforcement Officer. If, in exceptional circumstances, and subject to observations times, the motorist had to escort a passenger (child, elderly or disabled person) to home, or school.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

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

MC34 Where the motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If motorist was instructed / authorised to park in alleged contravention of the restriction by the Police.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC35 Where the motorist states they were in Police custody when PCN issued

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If no proof provided. If vehicle could have been legally parked before arrest.

MC36 Where the motorist states they were visiting a friend or relative in urgent circumstances

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If due to an emergency the alleged contravention could not be avoided due to the exceptional nature of the incident.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Civil Enforcement Officer's Pocket Book notes provide significant reason to doubt sincerity of representation.

MC37 Where the motorist claims there was no legal place to park

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

Only in the most exceptional of circumstances that made parking in the location imperative.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In the absence of exceptional circumstances.

MC38 Where the motorist claims they were parked on private property

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC39 Where the motorist was delayed in returning to their vehicle parked in a limited waiting parking place

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

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. If motorist's vehicle had broken down, subject to concurrence with policy MC25 above).

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the motorist was unable to drive, since parking the vehicle. If the delay described by the motorist was not exceptional, i.e. queuing in a shop. If the motorist simply underestimated the time needed and could have reasonably purchased more time. If the motorist was unable to drive since parking due to excess alcohol in the body or had been detained by the police for any reason, unless subsequently released without charge or proven innocent.

MC40 Where the motorist had parked while asking directions / opening gates to private property

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If evidence provided by the Civil Enforcement Officer does not contradict representations.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

In all other circumstances.

MC41 Where the motorist stopped to answer mobile phone

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstances.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

On all occasions.

MC42 Where the motorist states that the details on the PCN are incorrect, e.g. location

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the Civil Enforcement Officer.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If the Penalty Charge Notice was fully and correctly completed.

MC43 Where the motorist states they were unaware of enforcement on Bank/Public holidays

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

In no circumstances.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

On all occasions.

MC44 Where the motorist states that restriction was marked after the vehicle had been parked

THE COUNCIL / PARTNERSHIP MAY ACCEPT REPRESENTATIONS:

If records confirm that signing/lining/placement of cones or suspension notices was likely to have taken place after the vehicle parked.

THE COUNCIL / PARTNERSHIP MAY REJECT REPRESENTATIONS:

If there is evidence to show that markings were already in place at the time of parking.

Section 6

The Independent Adjudication Service

If the Council / Partnership does not uphold your Formal Representation you will be given the opportunity to appeal your case to the Independent Parking Adjudication Service: The Traffic Penalty Tribunal, which is based in Manchester, hears appeals in respect of Penalty Charge Notices issued by Local Authorities in England, apart from those issued in London.

Appeals can be heard either by post or at a personal hearing at a location selected by the appellant. All appeal hearings are informal but are legally binding on both parties. Costs are not normally awarded to the successful party.

Details of the appeals process, including the specific grounds under which appeals can be made, will be sent to the appellant with the Formal Notice of Rejection of Formal Representation. Once received, the appeal form must be completed and sent to the Adjudication Service within 28 days of the date of the Notice of Rejection.

Please read the appeal form carefully. Do not send the form to the Council / Partnership as this will delay the matter and may lead to the appeal being rejected by the Adjudication Service.

If you do not receive an appeal form with the Notice of Rejection please contact the Council / Partnership immediately.

If an appeal is made, the Council / Partnership will be notified by the Adjudication Service and will have 21 days in which to submit its response to the appeal. This will usually consist of a full evidence bundle along with a detailed summary, including the Council's submission.

If you include additional evidence with your appeal to the Adjudication Service, the Council / Partnership may accept this and will choose not to contest the appeal.

You will receive copies of the Council's / Partnership's evidence bundle directly from the Council / Partnership and you will be formally informed of the outcome of the appeal by the Adjudication Service. Please read this properly as it will contain instructions for you to follow.

In cases where an Adjudicator considers that the Council / Partnership should have used its discretion to cancel the Notice to Owner, the Adjudicator may refer the case back for the Council / Partnership to reconsider. Such cases are directed by the Adjudicator to the Council's Chief Executive who will either review and consider the matter himself or refer the matter to another Officer to determine on his behalf. This will be an Officer from outside the Parking Services Section that dealt with the original case.

The Council / Partnership has 35 days from the date of the Adjudicator's decision in which to reconsider the matter (if it fails to do this the Adjudicator's recommendation will be deemed to have been accepted and the Notice to Owner will be cancelled). If it agrees with the Adjudicator's recommendation the Notice to Owner will be cancelled, any sums refunded, and no further action will be taken.

If the Adjudicator's recommendation is not accepted, you will be told why and you will then have a further 28 days in which to pay the Penalty Charge (in which case the matter will be closed). If you do not pay the Penalty Charge within this period, a Charge Certificate may be issued to recover the amount due through the County Court process.