**CIVIL PARKING ENFORCEMENT**

**Guidance policies for the enforcement**

**and**

**cancellation of Penalty Charge Notices**

**POLICIES SET OUT IN THIS DOCUMENT PROVIDE  
GUIDANCE ONLY.**

**EACH CASE MUST BE CONSIDERED ON ITS OWN  
MERITS, TAKING INTO ACCOUNT ALL OF THE  
EVIDENCE AVAILABLE AND THE EXCEPTIONALITY OF  
THE CIRCUMSTANCES**

**INDEX**

**Page No**

INTRODUCTION 6

STANDARD CONTRAVENTION CODES & OBSERVATION TIMES 7

**STATUTORY GROUNDS TO MAKE REPRESENTATIONS (Part 6 of Traffic Management Act 2004) 6**

**S1 The contravention did not occur: 11**

S1.1 where the motorist claims he/she was loading/unloading 11

S1.2 where the motorist claims that a parking pay & display

machine was faulty 11

S1.3 where motorist claims that the restriction is not clearly signed

or marked 12

S1.4 where motorist was carrying out building works 12

S1.5 where motorist claims that Penalty Charge Notice (PCN) was not served (i.e. PCN not found attached to vehicle

or handed to driver) 12

S1.6 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 12

S1.7 where motorist claims that a valid authorisation to park, had

been issued 13

S1.8 where the motorist claims that a pay & display ticket was

purchased and displayed. 13

**S2 The penalty exceeded the relevant amount 13**

**S3 The Traffic Order was invalid 14**

**S4 The motorist was not the owner/keeper of the vehicle at the time**

**of the contravention: 14**

S4.1 where the current registered keeper claims that the vehicle

was disposed of before the contravention occurred 14

S4.2 where the current registered keeper claims that the vehicle

was purchased after the contravention occurred 14

S4.3 where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention 15

S4.4 where the motorist claims that they never owned the vehicle 15

S5.1 where the current registered keeper claims that the vehicle

had been stolen 15

S5.2 where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged

partner) 16

**S6 The owner is a hire company and have supplied the name of the**

**hirer 16**

**S7 Any other information that the motorist / vehicle owner want the**

**Council to take into consideration 16**

**MITIGATING CIRCUMSTANCES 17**

MC1 The motorist claims to have become unwell while driving 17

MC2 The motorist claims to be a doctor, nurse, health visitor attending a patient 17

MC3 The motorist stopped to use the toilet 17

MC4 The motorist stopped to collect (prescribed) medication from a chemist 17

MC5 The motorist was a patient visiting a doctor’s surgery 18

MC6 The motorist claims to have been recently bereaved 18

MC7 The motorist was delayed in returning to their vehicle and parking time purchased had expired 18

MC8 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 19

MC9 The motorist left the vehicle parked without a valid ticket on display to obtain change. 19

MC10 The motorist claims to have been unaware of charges or restriction in

the car park relating to vehicle’s class or weight. 19

MC11 The motorist claims to have been unaware of recent rise in tariff 19

MC12 The motorist had parked with one or more wheels outside of

a marked bay in a car park 20

MC13 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 20

MC14 The motorist claims to have been unaware of the existence of

a controlled parking zone 20

MC15 The motorist was displaying an expired authorisation to park,

i.e. waiver, parking place suspension, season ticket,

residents permit, business permit or visitors permit 21

MC16 The motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident’s visitor permit 21

MC17 The motorist is a new resident within a controlled parking zone and had parked in a residents bay without displaying a valid residents permit 21

MC18 The motorist had parked incorrectly in a controlled bay on-street 21

MC19 The motorist assumed that they were entitled to “a period of grace”

before the PCN was issued 21

MC20 The motorist claims they were attending a funeral 22

MC21 The motorist claims that snow, foliage, fallen leaves or flooding

covered the signs or markings 22

MC22 where the motorist claims that their vehicle had broken down 22

MC23 The motorist claims that they were attending an emergency or

another vehicle that had broken down 23

MC24 The motorist claims to have put money into the wrong ticket machine 23

MC25 The vehicle in question was on police, fire brigade or ambulance duties 23

MC26 The motorist claims to have been collecting or depositing

monies at a bank 23

MC27 The motorist claims to have been unaware of a temporary

parking restriction or special event restriction 24

MC28 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 24

MC29 The registered keeper liable for payment of the PCN is said

to have died 24

MC30 Where the vehicle driven by the motorist is diplomatically registered 24

MC31 The motorist received a Fixed Penalty Notice (FPN) from a

police officer or traffic warden when parked in the same location 25

MC32 A Council officer or Member parked in contravention and claims to

have been on Council business 25

MC33 The motorist stopped to drop off someone 25

MC34 The motorist was unaware of the Overnight Waiting

Ban/Commercial Vehicle waiting restriction 25

MC35 The motorist states they were in police custody when

PCN issued 26

MC36 The motorist states they were visiting a friend or relative in

urgent circumstances 26

MC37 The motorist claims there was no legal place to park 26

MC38 The motorist claims they were parked on private property 26

MC39 The motorist was delayed in returning to their vehicle parked

in a limited waiting parking place 27

MC40 The motorist had parked while asking directions / opening

gates to private property 27

MC41 The motorist stopped to answer mobile phone 27

MC42 The motorist states that the details on the PCN are incorrect,

e.g. location 27

MC43 The motorist states they were unaware of enforcement on

Bank/Public holidays 28

MC44 The motorist states that restriction was marked after the

vehicle had been parked 28

**Record of Amendments 29**

**HAVANT BOROUGH COUNCIL**

**POLICIES FOR THE ENFORCEMENT AND CANCELLATION OF PENALTY CHARGE NOTICES**

**INTRODUCTION**

The Executive of Havant Borough Council has agreed the following policy guidance in respect of Civil Parking Enforcement, based on a model document which has been adopted by all Local Authorities across the county of Kent. The policies in this document are intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations.

This is consistent with current best practice and aims to provide clarity, consistency and transparency within the enforcement process and compliance with the aspirations of the National Parking Adjudication Service and the Local Government Ombudsman.

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

The policies address the following:

**Observation times for enforcement staff**

**The statutory grounds upon which representations may be made Mitigating circumstances**

**The acceptance or rejection of representations**

It is important to recognise that each case will be considered on its own merits,

Matters of proportionality, objectivity, fairness and reasonableness should be paramount.

These policies will be subject to ongoing review.

**STANDARD CONTRAVENTION CODES & OBSERVATION TIMES**

***(Not all Contravention Codes apply in all Council areas)***

|  |  |  |  |
| --- | --- | --- | --- |
| **Code** | **Observation Time** | **Contravention** | **Notes** |
| 01 | 1 min | Parked in a restricted street during prescribed hours |  |
| 02 | 0 min | Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force |  |
| 04 | 0 min | Parked in a meter bay when penalty time is indicated | N/A |
| 05 | 0 min | Parked after the expiry of paid for time at a pay & display bay | N/A |
| 06 | 0 min\*\* | Parked without clearly displaying a valid pay & display ticket | N/A |
| 07 | 0 min | Parked with payment made to extend the stay beyond initial time (‘meter feeding’) | N/A |
| 08 | 0 min | Parked at an out-of-order meter during controlled hours | N/A |
| 09 | 0 min | Parked displaying multiple pay & display tickets where prohibited | N/A |
| 10 | 0 min | Parked without clearly displaying two valid pay and display tickets when required | N/A |
| 15 | 0 min | Parked in a residents’ parking space without clearly displaying a valid residents’ parking permit |  |
| 16 | 0 min | Parked in a permit space without displaying a valid permit |  |
| 17 | 0 min | Parked in a parking place without clearly displaying the required permit or pay & display ticket | N/A |
| 18 | 0 min | Using a vehicle in a parking place in  connection with the sale or offering or exposing for sale of goods when prohibited |  |
| 20 | GV 10 min\* PMC 5 min\* | Parked in a loading gap marked by a yellow line | N/A |
| 21 | 0 min | Parked in a suspended bay/space or part of bay/space |  |
| 22 | 5 min | Re-parked in the same parking place within specified time of leaving |  |
| 23 | 0 min | Parked in a parking place or area not designated for that class of vehicle |  |
| 24 | 0 min | Not parked correctly within the markings of the bay or space |  |
| 25 | GV 10 min\* PMC 5 min\* | Parked in a loading place during restricted hours without loading or unloading |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Code** | **Observation Time** | **Contravention** | **Notes** |
| 26 | 1 min | Vehicle parked more than 50 cm from the kerb and not within a designated parking place |  |
| 27 | 0 min | Parked adjacent to a dropped footway |  |
| 30 | 10 min | Parked for longer than permitted |  |
| 31 | 0 min | Entering and stopping in a box junction when prohibited | London only |
| 32 | 0 min | Failing to drive in the direction shown by the arrow on a blue sign | London only |
| 33 | 0 min | Using a route restricted to certain vehicles | London only |
| 34 | 0 min | Being in a bus lane | N/A |
| 35 | 0 min | Parked in a disc parking place without clearly displaying a valid disc | N/A |
| 36 | 0 min | Parked in a disc parking place for longer than permitted | N/A |
| 37 | 0 min | Failing to comply with a give way to oncoming vehicles sign | London only |
| 40 | 0 min | Parked in a designated disabled person’s parking place without clearly displaying a valid disabled person’s badge. |  |
| 41 | 0 min | Parked in a parking place designated for diplomatic vehicles | N/A |
| 42 | 0 min | Parked in a parking place designated for police vehicles | N/A |
| 45 | 0 min | Parked on a taxi rank |  |
| 46 | 0 min | Stopped where prohibited (on a red route or clearway) | N/A |
| 47 | 0 min | Parked on a restricted bus stop/stand |  |
| 48 | 0 min | Stopped in a restricted area outside a school |  |
| 49 | 0 min | Parked wholly or partly on a cycle track |  |
| 50 | 0 min | Failing to comply with a sign indicating a prohibited turn | London Only |
| 51 | 0 min | Failing to comply with a no entry sign | London Only |
| 52 | 0 min | Failing to comply with a sign indicating a prohibition on certain types of vehicle | London Only |
| 53 | 0 min | Failing to comply with a sign indicating a restriction on vehicles entering a pedestrian zone | London Only |

|  |  |  |  |
| --- | --- | --- | --- |
| **Code** | **Observation Time** | **Contravention** | **Notes** |
| 54 | 0 min | Failing to comply with a sign indicating a restriction on vehicles entering and waiting in a pedestrian zone | London Only |
| 55 | 0 min | A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban |  |
| 56 | 0min | Parked in contravention of a commercial vehicle waiting restriction |  |
| 57 | 0 min | Parked in contravention of a coach ban |  |
| 58 | 0 min | Using a vehicle on a restricted street during prescribed hours without a valid permit | London Only |
| 59 | 0 min | Using a vehicle on a restricted street during prescribed hours in breach of permit conditions | London Only |
| 61 | 0 min | A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways |  |
| 62 | 0 min | Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking) | N/A |
| 63 | 0 min | Parked with engine running where prohibited | N/A |
| 99 | 0 min | Stopped on a pedestrian crossing and/or crossing area marked by zig-zags | London Only |
| 70 | GV 10 min\* PMC 5 min\* | Parked in a loading area during restricted hours without reasonable excuse |  |
| 77 |  | **- - - RESERVED FOR DVLA USE - - -** |  |
| 80 | 10 min | Parked for longer than the maximum period permitted |  |
| 81 | 0 min | Parked in a restricted area in a car park |  |
| 82 | 10 min | Parked after the expiry of time paid for in a pay & display car park |  |
| 83 | 1 min | Parked in a pay & display\*\* car park without clearly displaying a valid pay & display ticket |  |
| 84 | 0 min | Parked with additional payment made to extend the stay beyond time first purchased |  |
| 85 | 0 min | Parked in a permit bay without clearly displaying a valid permit |  |
| 86 | 0 min | Parked beyond the bay markings |  |
| 87 | 0 min | Parked in a disabled person’s parking space without clearly displaying a valid disabled person’s badge |  |
| 88 |  | **- - - DELETED - - -** |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **Code** | **Observation Time** | **Contravention** | **Notes** |
| 89 | 0 min | Vehicle parked exceeds maximum weight and/or height permitted in the area |  |
| 90 | 10 min | Re-parked within specified time of leaving a bay or space in a car park |  |
| 91 | 0 min | Parked in an area not designated for that class of vehicle |  |
| 92 | 0 min | Parked causing an obstruction |  |
| 93 | 0 min | Parked in car park when closed |  |
| 94 | 0 min | Parked in a pay & display car park without clearly displaying two valid pay and display tickets when required. |  |
| 95 | 10 min | Parked in a parking place for a purpose other than the designated purpose for the parking place |  |
| 96 | 0 min | Parked with engine running where prohibited | N/A |
| \*GV = Goods Vehicle - 10 min observation. \*PMC = Private Motor Car including estate cars – 5 min observation. An ‘instant’ PCN may always be issued in circumstances where the Civil Enforcement Officer(CEO) has evidence, other than a period of observation, which supports the action of issuing the PCN without observing the vehicle for the minimum periods indicated. | | | |
| \*\* CEO’s should observe queues at ticket machines and/or pedestrians who may be seeking change or returning to the vehicle in question, before issuing a Penalty Charge Notice (PCN). | | | |

**STATUTORY GROUNDS TO MAKE REPRESENTATIONS (Part 6 of Traffic Management Act 2004)**

|  |  |
| --- | --- |
|  | |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S1 The contravention did not occur:** | |
| **S1.1 where the motorist claims he/she was loading/unloading** | |
| On a waiting prohibition or in a controlled bay: If evidence is available or provided to show:   1. Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from ‘legal’ parking place. 2. Loading/unloading activity was   adjacent to the premises concerned.   1. Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity [Source – Traffic Orders, decided cases e.g. Jane Packer Flowers] If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc. | On restrictions banning loading and unloading. On school zig-zag markings; on bus stop clearways: On Taxi ranks: On Police bays where loading is prohibited: In car parks: (except when depositing materials in recycling bins) if a valid pay & display ticket was not purchased first. |

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

|  |  |
| --- | --- |
| If signs and/or markings are missing or unclear If signs and markings are inconsistent with each other and/or Traffic Order or legislation  **S1.3 where motorist claims that the restriction is not clearly signed or marked** | If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order. |

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

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

|  |  |  |
| --- | --- | --- |
| **S1.5 where motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver)** | | |
| If the CEO’s pocket book and/or computer notes confirm that the vehicle drove away before a PCN could be served, i.e. PCN not handed to the driver or fixed to the vehicle. | If the CEO’s notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S1.6 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** | |
| Following consideration of all available evidence: If the motorist provides a copy of their vehicle excise license (tax disc), which was valid at the time of the contravention, and the serial number of which differs from the number noted by the CEO. | 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 CEO. Or If there is no evidence or if the evidence presented does not support the claim or is inconclusive |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S1.7 where motorist claims that a valid authorisation to park, had been issued** | |
| If records show that the motorist holds a valid authorisation to park. | 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 |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S1.8 where the motorist claims that a pay & display ticket was purchased and displayed** | |
| If the motorist produces a Pay & Display | • If the motorist is unable to produce a |
| parking ticket that was valid at the time | valid pay & display ticket • The CEO |
| the Penalty Charge Notice was issued | was unable to confirm that a face |
| and the CEO confirms that a face down | down ticket or a ticket that was |
| ticket and an attempt to use the sticky | displayed but concealed in some |
| back was used. | 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 CEO noted that the motorist obtained their ticket from another motorist in the car park. |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**S2 The penalty exceeded the relevant amount**

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

|  |  |
| --- | --- |
| If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was either not constructed correctly, i.e. is ultra vires, or was not made correctly, i.e. not consulted on properly  **S3 The Traffic Order was invalid** | If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was constructed and made correctly  If the motorist merely considers the restrictions to be unfair |
|  |  |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S4 The motorist was not the owner/keeper of the vehicle at the time of the contravention:** | |
| **S4.1 where the current registered keeper claims that the vehicle was disposed of before the contravention occurred** | |
| 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 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 | If the current registered keeper is unable to prove that they disposed of the vehicle before the contravention nor provide the name and address of the person to whom they disposed of the vehicle If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S4.2 where the current registered keeper claims that the vehicle was purchased after the contravention occurred** | |
| If the current registered keeper is able to | If the current registered keeper is |
| provide proof that the vehicle was | unable to prove that they purchased |
| purchased after the contravention, i.e. an | the vehicle after the contravention nor |
| invoice, registration documents, insurance documents or a letter from the | provide the name and address of the person from whom they bought the |
| DVLA; and/or If the current registered | vehicle If the person named by the |
| keeper is able to provide the full name | current registered keeper as the |
| and address of the person from whom | person to whom they disposed of the |
| they purchased the vehicle | vehicle, either does not exist, cannot be traced or is for some other reason not considered to be bona fide |

|  |  |
| --- | --- |
| Only when a hire agreement exists (see policy S6, below)  **S4.3 where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention** | In all other circumstances because the registered keeper is always liable, including where the vehicle was left in the care of a garage |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S4.4 where the motorist claims that they never owned the vehicle** | |
| If the DVLA confirm that the motorist was not the registered keeper at the time of the contravention | If the DVLA confirms that the motorist was the registered keeper of the vehicle at the time of the  contravention. If the previous  registered keeper provides proof that the motorist bought the vehicle before the contravention, or the subsequent registered keeper provides proof that the motorist sold the vehicle after the contravention If the motorist is proven to have hired the vehicle for the day on which the contravention occurred and signed an agreement to take responsibility for PCNs incurred, subject to the time of hire (see policy S6, below) |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S5 the vehicle had been taken without owner’s consent** | |
| **S5.1 where the current registered keeper claims that the vehicle had been stolen** | |
| If the registered keeper provides a valid police crime report reference number. | 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 |

|  |  |
| --- | --- |
| In no circumstance  **S5.2 where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)** | In all circumstances because the registered keeper is always liable, save for when a hire agreement exists (see policy S6, below) |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S6 the owner is a hire company and have supplied the name of the hirer** | |
| If the hire company are able to provide | If the hire company are unable to |
| proof that the vehicle was hired at the | prove that they hired out the vehicle |
| time of the contravention, i.e. a signed | on the date of the contravention nor |
| agreement If the hire company are able to | provide the name and address of the |
| provide the full name and address of the | person to whom they hired the vehicle |
| person to whom they hired the vehicle | If the person named by the hire |
| ACTION - send a new Notice to Owner to | company as the person to whom they |
| the person named by the hire company | hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention If the vehicle was being as a courtesy car without an  agreement signed to accept responsibility for Penalty Charge |
|  | Notices issued. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **S7 Any other information that the motorist / vehicle owner want the Council to take into consideration** | |
| 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**

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC1 where the motorist claims to have become unwell while driving or whilst parked** | |
| If the motorist provides proof of a medical | If the motorist cannot provide some |
| condition, temporary or permanent, that is consistent with the conditions described. | proof of a medical condition, temporary or permanent, consistent |
| When the notes made by the CEO | with the conditions described. Or |
| support the motorist’s representations. | where other evidence contradicts the motorists claims |

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

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC3 where the motorist stopped to use the toilet**

|  |  |
| --- | --- |
| On production of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation. | In all other circumstances |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| Only in the most grave, urgent and exceptional of circumstances and the use of a ‘legal’ parking place would have caused an unacceptable delay. | In any lesser circumstances. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC5 where the motorist was a patient visiting a doctor’s surgery** | |
| 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. | If the motorist was not the patient but only driving the vehicle carrying the patient If the motorist was attending a pre-arranged, non-urgent appointment. If the motorist could reasonably have been expected to parked legally elsewhere. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC6 where the motorist claims to have been recently bereaved** | |
| If no evidence exists to the contrary, taking into account the sensitivity of this issue on first occasion. | Only if there is a significant reason to doubt the sincerity of representations, i.e. the CEO’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 |

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

|  |  |
| --- | --- |
| In no circumstances  **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** | If the motorist overstays initial period of time purchased or returns within a period of ‘No return’ |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC9 where the motorist left the vehicle parked without a valid ticket on display to obtain change.** | |
| If the motorist had not left the car park, or on-street pay and display area, while obtaining change and a ticket was purchased. | If the CEO’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 |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

|  |  |  |
| --- | --- | --- |
| **MC10 where the motorist claims to have been unaware of charges or restriction in the car park relating to vehicle’s class or weight.** | | |
| If reference to restrictions on tariff board(s) are incorrect or missing. | In all other circumstances |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| If statutory notices were not erected in accordance with procedural regulations. If revised tariff is not on tariff board(s) | If statutory notices were erected in accordance with procedural  regulations and tariff board(s) were correct |

|  |  |
| --- | --- |
| Only in the most exceptional of circumstances that were outside the motorists control and are supported by incontrovertible evidence. Otherwise, in no circumstances  **MC12 where the motorist had parked with one or more wheels outside of a marked bay in a car park** | When clear and incontrovertible supporting evidence (photographs/sketch plan) is available |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **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** | |
| If it can be established that this is the | If the motorist has previously had a |
| motorist’s first contravention of this type | PCN cancelled for the same |
| and they can provide evidence that they | contravention and has been warned to |
| are a blue badge holder or were transporting a blue badge holder. | 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. |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| If it can be established that the signing and marking of the CPZ/CPA is at fault, see policy S1.3, above | In all other circumstances |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **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** | |
| If the renewal of the authorisation was | In all other circumstances In the event |
| delayed by the Council’s administrative | of more than one vehicle registration |
| processes If it can be established that other reasonably unforeseen | included on season ticket or permit, subsequent production of the season |
| circumstances delayed the renewal of an | ticket will not necessarily cause |
| authorisation to park, e.g. sickness on the | automatic cancellation of the PCN as |
| part of the applicant or a postal | the season ticket may have been |
| dispute/delays (supported by appropriate evidence) In the case of season tickets and resident’s / business parking permits only, if the authorisation had expired by less than 3 days | used on the other vehicle |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

|  |  |  |
| --- | --- | --- |
| **MC16 where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident’s visitor permit.** | | |
| In no circumstances | On all occasions |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC17 where the motorist is a new resident within a controlled parking zone and had parked in a residents bay without displaying a valid residents permit**

|  |  |
| --- | --- |
| In no circumstances | On all occasions |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| If it can be established that the motorist was genuinely loading or unloading, subject to compliance with policy S1.1, above. | On all occasions |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC19 where the motorist assumed that they were entitled to “a period of grace” before the PCN was issued**

|  |  |
| --- | --- |
| In no circumstances. | In all circumstances. |

|  |  |
| --- | --- |
| If no evidence exists to the contrary, taking into account the sensitivity of this issue.  **MC20 where the motorist claims they were attending a funeral** | Only if there is a significant reason to doubt the sincerity of the representations. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC21 where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings** | |
| If it can be established that such | If it can be established that such |
| conditions prevailed and it is likely that | conditions did not cause lines and |
| signs and markings were obscured as | signs to be obscured as claimed. If |
| claimed and there was no alternative | the CEO’s notes photographic |
| indication of the restriction. | 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 |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC22 where the motorist claims that their vehicle had broken down** | |
| 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. | 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 CEO’s notes contradict the motorist’s version of events. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC23 where the motorist claims that they were attending an emergency or another vehicle that had broken down** | |
| 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. | 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 CEO’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 |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC24 where the motorist claims to have put money into the wrong ticket machine** | |
| If it is agreed that the position of the ticket machine used by the motorist is likely to cause confusion. | 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 contravention previously. |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC25 where the vehicle in question was on police, fire brigade or ambulance duties**

|  |  |
| --- | --- |
| If a senior officer of the service  concerned, supports the representations and there is no reason to doubt that the vehicle was engaged on operational activities. | In all other circumstances |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

|  |  |  |
| --- | --- | --- |
| **MC26 where the motorist claims to have been collecting or depositing monies at a bank** | | |
| If the procedure explained in the  motorist’s representations is consistent with the allowance for loading and unloading, see Policy S1.1, above or If specific arrangements have been agreed | In all other circumstances |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC27 where the motorist claims to have been unaware of a temporary parking restriction or special event restriction** | |
| If the motorist claims that there was no indication of the restriction, and the CEO’s notes/photographs do not confirm that appropriate signing was in place. If the process followed to make the temporary order was defective in some way. | If the CEO’s notes/photographs  confirm that the vehicle was parked in an area restricted by the Temporary Order or Notice, and that appropriate signing was in place and clearly visible. |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| In no circumstances | On all occasions |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| Where the circumstances can be confirmed (by sensitive enquiry). | Only if there is a significant evidence to doubt the sincerity of the representations. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC30 where the vehicle driven by the motorist is diplomatically registered** | |
| In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle KCC should be informed of all penalty charges unrecovered from keepers of  diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and | In no circumstances |
| 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...] |  |

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

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC32 where a Council officer or Member parked in contravention and claims to have been on Council business**

|  |  |
| --- | --- |
| If the officer was carrying out emergency or other statutory work. | If it can be established that the officer/Member could have reasonably parked elsewhere. |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC33 where the motorist stopped to drop off someone** | |
| If the circumstances are seen by the CEO. 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. | If motorist was parked/stopped on school keep clear markings,  pedestrian crossing, bus stop clearway |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

|  |  |  |
| --- | --- | --- |
| **MC34 where motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction** | | |
| If motorist was instructed / authorised to park in contravention of the restriction by the police. | In all other circumstances |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC35 where motorist states they were in police custody when PCN issued** | |
| 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 | If no proof provided If vehicle could have been legally parked before arrest |

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC36 where motorist states they were visiting a friend or relative in urgent circumstances** | |
| If due to an emergency the parking contravention could not be avoided due to the exceptional nature of the incident. | If motorist has already received a PCN, which has been cancelled for the same reason If the CEO’s pocket book notes provides significant reason to doubt sincerity of representation |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC37 where motorist claims there was no legal place to park**

|  |  |
| --- | --- |
| Only in the most exceptional of circumstances | In the absence of exceptional circumstances |

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

|  |  |
| --- | --- |
| **MAY ACCEPT REPRESENTATIONS** | **MAY REJECT REPRESENTATIONS** |
| **MC39 where motorist was delayed in returning to their vehicle parked in a limited waiting parking place** | |
| If supported by appropriate evidence, the | If the delay described by the motorist |
| motorist’s representations claim that the | was not exceptional, i.e. queuing in a |
| delay in returning to the vehicle was | shop. If the motorist simply |
| caused by circumstances that were | underestimated the time needed and |
| entirely unforeseen, unavoidable and | could have reasonably purchased |
| exceptional. If motorist’s vehicle had | more time. If the motorist was unable |
| broken down, subject to concurrence with | to drive since parking due to excess |
| policy MC25, above). If the motorist was unable to drive, since parking the vehicle, or had been were detained by the police for any reason. | alcohol in the body |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC40 where motorist had parked while asking directions / opening gates to private property**

|  |  |
| --- | --- |
| If evidence provided by the CEO does not contradict representations. | In all other circumstances |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

**MC41 where motorist stopped to answer mobile phone**

|  |  |
| --- | --- |
| In no circumstances | On all occasions |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the CEO | If the PCN was fully and correctly completed. |

|  |  |
| --- | --- |
| In no circumstances | On all occasions |

**MAY ACCEPT REPRESENTATIONS MAY REJECT REPRESENTATIONS**

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

|  |  |
| --- | --- |
| 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. |

Issuing Times in line with new policy

JT

Obs Times

19/06/2020

**RECORD OF AMENDMENTS**

**Date**

**Section**

**Notes**

**Amendment**