

Made up Council

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Penalty Charge Notice Processing Guide.

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1.2 TRAFFIC REGULATION ORDERS

Traffic Orders are local acts, which determine where and how vehicles can park, the charges and the contraventions which apply. This enables the Council to issue PCNs where a contravention occurs.

There are likely to be several TROs in place, some covering CPZs and others covering waiting restrictions (yellow lines), car parks etc.

Each TRO will consist of 2 parts, the Articles and the Schedules. The Articles give details of the restrictions relating to the bays or lines, what is and is not permitted, exemptions, permit rules and charges. The Schedules detail all the roads or sections of road that are covered by the Articles.

It is vital that the TROs are as up to date as possible for the Council should not be enforcing a road if there is no provision to do so in the relevant TRO.

Councils are also required to ensure that the appropriate lines and signs are in place on the street or in car parks to mark and inform the public of the restrictions. Only authorised markings and signs may be used and these can be found in the Traffic Signs Regulations and General Directions 2002 (see page 6).

2. THE PENALTY CHARGE NOTICE CYCLE

2.1. THE ISSUE OF A PCN

A civil enforcement officer may issue a PCN if he/she has reasonable cause to believe that a vehicle is parked in contravention. There are a number of contravention codes for which the vehicle may be issued a PCN and these are shown in the PCN Case Manual.

There is no legal obligation on the civil enforcement officer to issue a PCN, and there may be occasions when it is appropriate to take other action, e.g. asking the driver to move. The policies on when to issue PCNs will be decided by the Council, and are subject to review and change where appropriate.

Observation times and 'grace periods' –

The Council has set some 'observation times', the period during which the civil enforcement officer cannot issue a PCN after first seeing the vehicle. These observation times are in place for the following reasons –

- To ensure fairness for drivers.
- To allow the civil enforcement officer to determine whether or not the driver is carrying out an exempt activity, such as loading or delivering.
- To allow for any slight discrepancies in times (e.g. the time shown on a CEO's hand held computer terminal (HHCT) may not exactly match the time shown on a pay and display machine).

Observation times are not a legal requirement, but are set by each individual Council. In the event of a query or appeal, it often strengthens the Council's case. For example, an observation period may help to prove that no unloading was taking place.

'Grace periods' are also entirely at the discretion of the individual Council and serve the same purposes as observation times. They do not require the observation of a vehicle by a civil enforcement officer, but will relate to the time allowed before a PCN may be issued. Examples are – not issuing a PCN until a pay and display ticket has expired by at least 5 minutes, allowing 5 minutes before a PCN is issued for non-display of a pay and display ticket (this allows a driver to find a machine and pay for the time required, then to get back to the vehicle and display the ticket).

Because observation times and grace periods are not a legal requirement, the Council may decide to change them at any time, if particular situations require such a change.

A Penalty Charge Notice should be paid within 28 days. If payment is received within 14 days, a 50% discount applies. To allow for postal delays, most councils will accept payment of the discounted amount up to day 17 or 19. This provision does not apply to payments made in person at the Parking Shop.

The cost of a Penalty Charge Notice is for more serious is £70.00 discounted to £35.00 if payment is received within 14 days and for less serious £50.00 discounted to £35.00 if payment is received within 14 days.

A Penalty Charge Notice must state:

- (a) The date on which the notice is served
- (b) The name of the enforcement authority
- (c) The registration mark
- (d) The date and time of the alleged contravention
- (e) the grounds on which the civil enforcement officer believes that a penalty charge is payable with respect to the vehicle;
- (f) the amount of the penalty charge which is payable;
- (g) that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date of the PCN was served;
- (h) That if the PCN is paid not later than the last day of the period of 14 days beginning with the date of the notice is served the penalty charge will be reduced by the amount of any applicable discount – currently 50%;
- (i) payment methods
- (j) that if the penalty charge is not paid before the end of the period 28 days, a notice to owner may be served by the enforcement authority on the owner of the vehicle;
- (k) That a person on whom an NtO is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected.
- (l) If representations against the penalty charge are received at the specified address before the NtO is served they will be considered.
- (m) But if an NtO is served notwithstanding those representations received against the penalty charge before the NtO is served, those representations must be made in the form and manner and at the time specified in the NtO.

It is also recommended that the PCN includes the following information;

- (n) vehicle make and colour (if evident);

- (o) detailed location of vehicle (full street name);
- (p) observation start and finish times (where appropriate);
- (q) CEOs identification number; and
- (r) the vehicle's tax disc number and expiry date (give reason if not recorded).
- (s) Amount of penalty time (when relevant).
- (t) Serial number and expiry time of pay and display ticket or voucher (when relevant).

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2.8 REPRESENTATIONS

The Council has a legal obligation under the Traffic Management Act to deal with all representations, and cannot contract out this duty.

When dealing with representations (and also with correspondence), you are acting in a quasi-judicial position. This has been stressed by the parking adjudicators. You must take an impartial view of the case.

Officers should make a fair and balanced judgement based upon –

- The facts of the individual case.
- Their knowledge of the legislation and of Council policies and practices.

If representations are made, they will normally be made on the back of the NtO. However, they are sometimes made in a separate letter and should still be treated as representations.

When representations are received, the following should be checked –

- **Has the representation been made within the required time scale?**
The Council is not obliged to deal with any representations that have been received outside the statutory time scale (35 days from the date of the NtO (28 days plus the 7 days allowance)). If the representations have been received outside this time, the Council can choose whether to deal with them or not. For example, they may be handled as a letter instead, or (if they are received after the issue of a Charge Certificate) you can write back and say that it is too late to deal with the representations at this stage.
- **Is the person making the representations the person named on the NtO?** Representations must be made by the registered keeper, or with his/her authority. Often, a NtO will be issued to a company and the driver of the vehicle will make representations – this is acceptable, but when replying it is usually advisable to send a copy of the rejection or acceptance letter to the company as well, as they will be ultimately responsible for payment of the PCN.

When representations have been received, the Council has a legal obligation to consider them, decide whether grounds for representation have been established, and issue either a Notice of Acceptance or Rejection.

The Council must respond to all received representations within 56 days of receipt of the representations; however the recommendation is for all

representations to be responded to within 21 days of receipt. If the Council fails to respond to a representation within the 56 days the representation must be accepted and a Notice of Acceptance sent to the owner of the vehicle.

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