

PROCEDURES FOR DEALING WITH CHALLENGES AND REPRESENTATIONS TO A PENALTY CHARGE NOTICE

BACKGROUND

Parking restrictions have been introduced by the Council to make roads safer, to reduce congestion and to ensure that the limited parking space is allocated fairly. Non-compliance of the regulations impacts on other road users including pedestrians and requires enforcement to be undertaken.

Under the Traffic Management Act 2004 (TMA 2004), the Department for Transport (DfT) provides clear advice on the procedure for dealing with challenges and representations from motorists about Penalty Charge Notices (PCNs).

The guidance requires Local Authorities to authorise fully trained Council officers to deal with challenges and representations. Authorised officers are familiar with all aspects of Civil Parking Enforcement, so that they can judge whether or not a challenge or representation falls within the statutory grounds under the TMA 2004 or within the Council's own guidelines for exceptional cases, thereby cancelling the PCN.

Given the semi-judicial nature of the representation process the DfT requires that Local Authority members should play no part in deciding individual challenges or representations. Similarly, officers who have not been authorised should also take no part in deciding individual challenges or representations.

Where challenges or representations are made following receipt of a PCN, or where Councillors or other Council Officers make representations on behalf of individuals; the guidelines as shown below will be followed.

PROCEDURE

All challenges or representations made either directly or on behalf of an individual must be made in writing or by email. Contact details are shown on the reverse of the PCN.

Where it is considered that there are grounds for cancelling a PCN the decision will be made by an authorised officer to decide, who will confirm the decision in writing.

The representation will be considered against the following guidelines and to ensure accountability. Exceptions to the guidelines will not normally be made. However, drivers are reminded that each case will be considered on its own individual merits. As with parking enforcement under the Road Traffic Act 1991 there is a free independent adjudication service. The final decision as to whether the PCN was issued correctly will be made by the Traffic Penalty Tribunal (TPT), previously known as the National Parking Adjudication Service (NPAS). In all cases where representations are rejected, drivers will be advised of the adjudication process.

The results of the decisions made by the adjudicators will be monitored and the Council's guidelines reviewed in the light of them.

Council staff and members may not be given special consideration and must be treated in the same manner as other members of the public.

GUIDELINES

Grounds where a PCN may be cancelled

The TMA 2004 provides a number of key reasons where a PCN may be challenged.

1. The alleged contravention did not take place.
2. The penalty charge exceeds the amount applicable.
3. The Traffic Regulation Order which is alleged to have been contravened is invalid.
4. There has been a procedural impropriety on the part of the Council.
5. The registered keeper was not the owner of the vehicle at the time of the alleged contravention.
6. The vehicle was parked by a person who was in control of it without the registered keepers consent.
7. The Civil Enforcement Officer was prevented from serving the PCN.
8. The PCN was paid either in full or at the discounted rate within the discount period.
9. The registered keeper is a hire firm and the person hiring the vehicle has signed a statement accepting liability.

Additional reasons where the PCN may be cancelled are

10. The vehicle was broken down. An independent receipt/report for work undertaken should support this. E.g. (AA, RAC or similar).
11. The vehicle was legitimately loading/unloading. A receipt or the relevant paperwork should support this.
12. Production of a valid pay and display ticket/season ticket/residents permit for the relevant contravention.
13. Production of both sides of the valid Blue Badge being relied upon at the time of the contravention.
14. There are compelling, mitigating or compassionate grounds depending on the individual circumstances along with any supporting evidence.

Where representations are made on any one of the above grounds, and are substantiated to the satisfaction of the Authorised Officer, the PCN will be cancelled and confirmed in writing.

Circumstances where ordinarily the PCN will not be cancelled

1. A permit holder parked in contravention of the restrictions because a space was unavailable.
2. Parked at pay and display bay whilst getting change to pay the charge. (Note: The Civil Enforcement Officer (CEO) notes will confirm a period of observation verifying that they have checked to see if there was evidence of persons waiting to purchase a ticket.).
3. The driver claims that the lines and signs are not sufficient to indicate Parking Restrictions, where it is shown that a reasonable enquiry would indicate the restrictions were identifiable.
4. The driver was a Council employee or Member on Council business.
5. Age, financial circumstances or disability unless excused on compassionate ground.
6. Where a PCN has previously been cancelled in similar circumstances.

It is St Albans City and District Council policy generally to re-offer the discount option in cases where the initial enquiry has been received within the initial discount period, i.e. within 14 days of the PCN being issued. Full payment of the PCN at any stage will result in the case being closed.