



BIRMINGHAM CITY COUNCIL

CIVIL PARKING ENFORCEMENT

Guidelines for the consideration of Challenges and
Representations against Penalty Charge Notices
Version 13

Policies set out in this document
provide guidance only.

Each case must be considered on its own merits, taking into
account the exce

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INTRODUCTION

The policy guidelines in this document have been produced to help and inform members of the public who have received a Penalty Charge Notice.

This approach is consistent with current best practice

MITIGATING CIRCUMSTANCES WHERE THE MOTORIST CLAIMS:-

MC1 THEY WERE UNAWARE OF ENFORCEMENT ON BANK/PUBLIC HOLIDAYS.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.	In the absence of compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.

MC2 IS A CURRENT BLUE BADGE HOLDER / TRANSPORTING A CURRENT BLUE BADGE HOLDER AND THEY DID NOT HAVE THEIR BLUE BADGE AND/OR CLOCK ON DISPLAY OR COULD NOT BE READ OR HAD EXPIRED.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
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If it can be established that this is the

they can provide details of a blue badge that was valid at the time the Penalty Charge Notice was issued if the Civil Enforcement also confirms:-

- (a) A blue badge was displayed the wrong way in the vehicle.
- (b) A blue badge was displayed but partially concealed so that the expiry date of the badge could not be observed.
- (c) The clock was displayed along with the blue badge but was partially concealed so that the arrival time could not be observed (yellow lines only).
- (d) If it can be established that other reasonably unforeseen circumstances delayed the renewal of the blue badge e.g. sickness on the part of the applicant or postal

MC3 THE VEHICLE HAD BROKEN DOWN

MAY ACCEPT CHALLENGE

MAY REJECT CHALLENGE

MC7 A COUNCIL OFFICER OR MEMBER PARKED IN CONTRAVENTION AND CLAIMS TO HAVE BEEN ON COUNCIL BUSINESS.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
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If the officer was carrying out emergency or other statutory work and the vehicle could not have been reasonably parked elsewhere.

Where there are

MC14 THE PAY AND DISPLAY MACHINE WAS FAULTY

MAY ACCEPT CHALLENGE

MAY REJECT CHALLENGE

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

If there was not another ticket machine nearby which was operating correctly.

Where there are compelling reasons or other specific mitigating circumstances requiring

MC18 STOPPED TO COLLECT (PRESCRIBED) MEDICATION FROM A CHEMIST

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>Only in the most grave, urgent and exceptional of circumstances and only if the caused an unacceptable delay.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>In all other circumstances.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC19 WAS A PATIENT VISI

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>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.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If the motorist was not the patient but only driving the vehicle carrying the patient.</p> <p>If the motorist was attending a pre-arranged non-urgent appointment.</p> <p>If the motorist could reasonably have been expected to park legally elsewhere.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC20 HAVE BEEN RECENTLY BEREAVED AND/OR WERE REGISTERING THE DEATH

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>Discretion may be applied where the motorist provides satisfactory evidence to confirm the circumstances.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If there is reason to doubt the representations.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC21 THE REGISTERED KEEPER LIABLE FOR PAYMENT OF THE PENALTY CHARGE NOTICE IS SAID TO HAVE DIED.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>Where the circumstances can be confirmed i.e. copy of a death certificate.</p>	<p>If there is reason to doubt the representations.</p>
<p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

OR

If the motorist produces a Pay and Display parking ticket that was valid at the time the

**MC29 THEY
SUBSEQUENT TIME TO PARK IN THE SAME PLACE OR RETURNED TO THE
SAME PLACE WITHIN A SPECIFIED AND PROHIBITED TIME PERIOD.**

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.	In all other circumstances Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.

**MC30 LEFT THE VEHICLE PARKED WITHOUT A VALID TICKET ON DISPLAY TO
OBTAIN CHANGE.**

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.	indicate that the motorist returned to the vehicle while the Penalty Charge Notice was being issued:- Having apparently completed the purpose which led to the vehicle being parked in the first place, (e.g. carrying shopping etc.). Having left the vehicle in order to obtain change outside the car park or away from the on-street pay and display area. Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.

**MC31 WERE UNAWARE OF THE PARKING CHARGE PAYABLE OR OF THE
RESTRICTION/PROHIBITIONS APPLICABLE.**

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
If signs providing information about the parking charge payable, and the restrictions applicable are incorrect, inadequate or missing altogether. Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.	In all other circumstances. Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.

MC32 TO HAVE BEEN UNAWARE OF RECENT RISE IN TARIFF.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If statutory notices were not erected in accordance with procedural regulations.</p> <p>If the revised tariff is not on the tariff board(s).</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If statutory notices were erected in accordance with procedural regulations and the tariff board(s) were correct.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC33 HAD PARKED WITH ONE OR MORE WHEELS OUTSIDE OF A MARKED PARKING BAY IN A CAR PARK.

MAY ACCEPT CHALLENGE

MAY REJECT CHALLENGE

	<p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>
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MC35 A VALID AUTHORISATION TO PARK HAD BEEN ISSUED

MC37 WHERE THE MOTORIST IS PARKED IN CONTRAVENTION OF PARKING RESTRICTIONS IN FORCE WHILST DISPLAYING A RESIDENTS/VISITOR PERMIT.

MAY ACCEPT CHALLENGE

MAY REJECT CHALLENGE

MC40 THE MOTORIST RECEIVED A FIXED PENALTY NOTICE (FPN) FROM A POLICE OFFICER OR TRAFFIC WARDEN WHEN PARKED IN THE SAME LOCATION.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If confirmation is provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted to prevent</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC41 THEY WERE IN POLICE CUSTODY WHEN THE PCN WAS ISSUED OR WHEN THE PARKING CONTRAVENTION OCCURRED FOR PENALTY CHARGE NOTICES ISSUED BY POST.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If proof is provided by the Police that the police had instructed the motorist to leave the vehicle.</p> <p>If proof is provided by the Police that at the time of arrest the motorist was legally parked and was unable to move the vehicle before the restriction started.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If no proof is provided by the Police.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC42 THERE HAS BEEN A PROCEDURAL IMPROPRIETY ON THE PART OF THE ENFORCEMENT AUTHORITY.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>Where it is established that the enforcement authority has failed to observe a legal requirement imposed on it by the Traffic Management Act and/or regulations in relation to the imposition or recovery of a penalty charge or other sums.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If it is established that:-</p> <p>The Traffic Management Act and/or regulations have been fully and correctly observed by the enforcement authority.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC43 THE RESTRICTION WAS MARKED AFTER THE VEHICLE HAD BEEN PARKED.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If records confirm that signing/markings/ placement of cones or suspension notices was likely to have taken place after the vehicle was parked.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If there is evidence to show that the signing/markings/ placement of cones or suspension notices were already in place at the time of parking.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC44 THAT THE RESTRICTION IS NOT CLEARLY SIGNED OR MARKED

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If signs and/or markings were missing or unclear.</p> <p>If signs and/or markings were inconsistent with each other and/or the Traffic Order or legislation.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If site visit records or photographs establish that signs and/or markings were correct and consistent with each other and the Traffic Order, at the time the Penalty Charge Notice was issued or when the parking contravention occurred for Penalty Charge Notices issued by post.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC47 PAYMENT OF THE PENALTY CHARGE NOTICE WAS SENT WITHIN THE DISCOUNTED PERIOD AND FORMAL DOCUMENTATION HAS BEEN RECEIVED ADVISING THE CASE IS STILL OUTSTANDING.

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If it can be established from the frank date on the envelope that payment had been posted within the discounted period so as to arrive by the 14th day.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If payment was declined or refused by the bank due to insufficient funds being available in the account and the 14 day discount period has expired.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC48 TWO PENALTY CHARGE NOTICES WITHIN 24 HOURS

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If photographic evidence shows that a vehicle has not moved and two Penalty Charge Notices have been issued within a 24 hour period.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

MC49 COULD NOT PAY WITHIN DISCOUNT PERIOD AS UNAWARE PENALTY CHARGE NOTICE HAD BEEN ISSUED AS IT WAS NOT AFFIXED TO VEHICLE

MAY ACCEPT CHALLENGE	MAY REJECT CHALLENGE
<p>If the photographic evidence taken at the time the Penalty Charge Notice was issued does not show the Penalty Charge Notice affixed to the vehicle.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>Where photographic evidence shows the Penalty Charge Notice was affixed to the vehicle and there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

STATUTORY GROUNDS TO MAKE REPRESENTATIONS
The Traffic Management Act 2004; Civil Enforcement of Parking Contraventions
(England) Representations and Appeals Regulations 2007.

If you believe that the penalty charge should not be paid, there are eight statutory grounds on which representations may be made, which are set out below:-

1. THE CONTRAVENTION DID NOT OCCUR

1.1 He/she was loading/unloading

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services etc. there is satisfactory evidence available or provided to show:</p> <p>Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried</p> <p>Loading/unloading activity was adjacent to the premises concerned, but includes taking goods to where the recipient may reasonably require them in the premises.</p> <p>Loading/unloading must be continuous while the vehicle is parked in the restricted area.</p> <p>Loading/unloading activity was timely (includes checking goods and signing paperwork, but not delayed by unrelated activity).</p> <p>A delivery note/order which states the date, time and location of the delivery/ collection is provided.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>On bus stop clearways</p> <p>On Taxi ranks</p> <p>On Police bays</p> <p>Where loading is prohibited</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

1.2 A pay and display ticket machine was faulty

MAY ACCEPT REPRESENTATIONS

1.4 Was carrying out construction or demolition works etc.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>If a valid waiver to park at the location in question had been issued and was on display in the vehicle.</p> <p>If works were of a statutory nature or are exempted from restrictions by a Traffic Order or legislation.</p> <p>If it can be proven that works were an emergency.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>In all other circumstances.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

1.5 The Penalty Charge Notice was not served (ie. The Penalty Charge Notice was not found attached to the vehicle or handed to the driver).

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>notes confirm that the vehicle drove away before a Penalty Charge Notice could be served, ie. Penalty Charge Notice not handed to the driver or fixed to the vehicle.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>er notes or photographs confirm that a Penalty Charge Notice was correctly served, i.e. handed to the motorist or fixed to their vehicle.</p>

or put the data into the hand held computer and would, in other circumstances, have to cancel the Penalty Charge Notice, but did not have enough time to finish or serve it before the vehicle was driven away.

1.6 The vehicle was not parked in the alleged location at the time and on the date the PCN was issued.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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If the motorist provides a copy of their vehicle excise licence (tax disc), which was valid at the time of the contravention, and the serial number of which differs from the number noted by the Civil Enforcement Officer or differs from the number shown on the photograph taken on the

1.8 That a Pay and Display ticket was purchased and correctly displayed.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>If the motorist produces a Pay and Display parking ticket that was valid at the time the Penalty Charge Notice was issued or when the parking contravention occurred for Penalty Charge Notices issued by post and confirms:</p> <p>A face down ticket was on display in the vehicle.</p> <p>A ticket was displayed but partially concealed so that relevant details (expiry time, date, etc.) could not be seen and checked.</p> <p>and providing that either:-</p> <p>The serial number printed on the back of a face down ticket was visible and could be seen and recorded by the Civil Enforcement Officer.</p> <p>The serial number of a partially concealed ticket was visible and could be seen and recorded by the Civil Enforcement Officer.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>The Civil Enforcement Officer confirms that either a face down ticket or partially concealed ticket was not on display at the time the Penalty Charge Notice was issued or when the parking contravention occurred for Penalty Charge Notices issued by post.</p> <p>The serial number of the ticket produced does not match the serial number printed on the back of the ticket seen by the Civil Enforcement Officer.</p> <p>When records confirm that the ticket produced was not purchased by the motorist (obtained from another motorist, found in the car park etc.), which was observed by the Civil Enforcement Officer.</p> <p>In circumstances when a Penalty Charge Notice has been issued in similar circumstances on a previous occasion or has been cancelled in accordance with this policy on previous occasions or it is decided that due to the number of times or the frequency that Penalty Charge Notices have been cancelled previously, not to exercise the same discretion on the occasion concerned.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

1.9 Where the motorist claims that a valid parking session was purchased via the Park and Pay phone facility,

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
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Where there is satisfactory evidence to show that the Park and Pay phone facility had been used

The motorist experienced problems when using the Park and Pay phone facility.

Where there are compelling reasons or other specific mitigating circumstances

2. THE RECIPIENT NEVER WAS THE OWNER/KEEPER OF THE VEHICLE IN QUESTION or:

- (a) Had ceased to be its owner/keeper before the date on which the alleged contravention occurred; or
- (b) Became its owner/keeper after that date.

Where a recipient makes representations under the circumstances above, they are legally obliged to include a statement of the name and address of the person to whom the vehicle was disposed of (or from whom it was acquired, as the case may be), if they have that information.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>If the DVLA confirm the motorist was not the registered keeper at the time of the contravention.</p> <p>If the previous registered keeper provides satisfactory evidence that the motorist purchased or acquired the vehicle after the contravention, or the subsequent registered keeper provides satisfactory evidence that the motorist sold or disposed of the vehicle before the contravention.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If the DVLA confirm the motorist was the registered keeper at the time of the contravention.</p> <p>If the previous registered keeper provides satisfactory evidence that the motorist purchased or acquired the vehicle before the contravention, or the subsequent registered keeper provides satisfactory evidence that the motorist sold or disposed of the vehicle after the contravention.</p> <p>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 Penalty Charge Notices</p>

3. 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.

This ground for representation covers stolen vehicles and vehicles which were not stolen but which were used without the owner's consent. It may apply in limited circumstances where a vehicle was being used by a member of the owner's family without the owner's consent, such as where the family member has no permission to use the vehicle and has taken the k

	<p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>
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<p>be the case on or near pedestrian crossings.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>individual merits.</p>
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7. (1) **THAT THE ORDER WHICH IS ALLEGED TO HAVE BEEN CONTRAVENED IN RELATION TO THE VEHICLE CONCERNED IS INVALID.**
- (2) **IN THE CASE WHERE A PENALTY CHARGE NOTICE WAS SERVED BY POST ON THE BASIS THAT A CIVIL ENFORCEMENT OFFICER WAS PREVENTED FROM FIXING IT TO THE VEHICLE CONCERNED OR HANDING IT TO THE OWNER OR PERSON IN CHARGE OF THE VEHICLE, THAT NO CIVIL ENFORCEMENT OFFICER WAS SO PREVENTED.**
- (3) **THAT THE NOTICE TO OWNER 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.**

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
<p>If a relevant Order was found to be invalid.</p> <p>If in accordance connection with the prevention of service of Penalty Charge Notices, it is determined that a Civil Enforcement Officer was not prevented from fixing the Penalty Charge Notice to the vehicle or handing it to the driver.</p> <p>If it is established that the penalty charge had been paid.</p> <p>Where there are compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>	<p>If a relevant Order was found to be valid.</p> <p>If in accordance connection with the prevention of service of Penalty Charge Notices, it is determined that a Civil Enforcement Officer was prevented from fixing the Penalty Charge Notice to the vehicle or handing it to the driver.</p> <p>If payment has not been received.</p> <p>Where there are no compelling reasons or other specific mitigating circumstances requiring the case to be assessed on its individual merits.</p>

