



## Guidance for the issuing and processing of PCNs in Nottinghamshire

### CONTENTS

Introduction .....	3
Section 1 - On and off-street parking.....	4
Civil Enforcement Officers .....	4
Discretion.....	4
Observation .....	5
Penalty Charge Notices .....	5
Figure 1 - Contravention Codes and Observation Times .....	5
Penalty Charge Notice - Content .....	7
Exemptions to Contraventions .....	7
Exemptions .....	7
Permits and badges .....	9
Dispensations.....	9
Suspensions .....	11
Broken down vehicles.....	11
Blue Badge Holders.....	11
Section 2 - Penalty Charge Notices – Processing and appeals.....	13
Penalty Charge Notice: Administrative Process.....	13
Appeals Procedure .....	15
Informal Challenge.....	15
Formal representation.....	16
Traffic Penalty Tribunal Appeal.....	16

Grounds for Appeal.....	17
Car ownership.....	17
The contravention did not occur .....	17
Vehicle taken without consent.....	19
Invalid Traffic Regulation Order.....	19
Hire vehicle .....	19
Penalty charge issue .....	20
Administration .....	20
Abandoned vehicles.....	20
Bank visits .....	21
Bad weather.....	21
Broken down vehicles.....	21
Council Officers/Members.....	22
Court Attendance .....	22
Dentists/Doctors/Health Visitors/Other Medical .....	23
Dropping off passengers.....	23
Funeral or Wedding .....	23
Garages .....	23
Glaziers, Hackney Carriages/Private Hire Vehicles .....	23
Hazardous substances .....	24
Holidays .....	24
Hospital car service.....	24
Loading/unloading.....	24
Permits.....	24
Police custody.....	24
Private property.....	24
Vandalized vehicles.....	25

## **Introduction**

This policy guidance has been prepared by the Civil Parking Enforcement Project Board for Nottinghamshire. This Board comprises of officers or representatives from Nottinghamshire County Council and the District Councils of Ashfield, Bassetlaw, Mansfield, Newark and Sherwood and the Borough Councils of Broxtowe, Gedling and Rushcliffe.

The advice contained within this document is intended to both assist the public in understanding how parking is enforced in the county and to support both council and contracted employees when undertaking enforcement and in particular when assessing representations.

Through the Board, the document will be subject to rigorous and frequent review to ensure that it reflects current best practice nationally. This in turn will enable enforcement to be carried out consistently and clearly across the county. It is stressed however that it is only guidance; each case will be assessed fairly and reasonably on its merits and it is not appropriate to prescribe a response for every set of circumstances. It does, however, indicate likely responses to typical representations that occur and in doing so will assist the public in understanding how their case will be approached and what evidence they should provide to support their representation.

This local guidance is not intended to replace or replicate national guidance but to complement it. The national guidance referred to in the document is the Secretary of State's 'Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions' (February 2008) and the associated 'Operational Guidance to Local Authorities: Parking Policy and Enforcement (November 2010 revised edition)'. These are referred to as 'National Guidance' within the text.

## **Section 1 - On and off-street parking**

Section 1 of the guidance contains information on how enforcement is undertaken both on the roads and in District/Borough Council car parks by Civil Enforcement Officers. It details the contraventions that may give rise to the issuing of a Penalty Charge Notice (parking fine) and the usual exemption to these.

### **CIVIL ENFORCEMENT OFFICERS**

**1.0** Civil Enforcement Officers are the patrolling officers responsible for issuing Penalty Charge Notices to vehicles considered to be parked in contravention of the parking regulations. In Nottinghamshire county area (the full county area with the exception of Nottingham City) they are currently supplied by NSL Services under contract to Nottinghamshire County Council and are deployed by the appropriate District/Borough Council to enforce parking restrictions both on-street and off-street in council-owned car parks. They wear an appropriate uniform containing the badge of the District or Borough Council responsible for their management. The hours of operation and the beats are flexible to address parking management issues that vary between town and district centres.

**1.1** The beats of the Civil Enforcement Officers are established by the District/Borough Parking Managers taking full consideration of traffic management and road safety concerns.

**1.2** Requests from the public for targeted enforcement will be addressed where appropriate. Priority will be given to requests received from the County Council (as Highway and Traffic Authority) and the Police. These authorities may from time to time request to fund coordinated enforcement to address particular traffic management or road safety issues.

### **DISCRETION**

**2.0** The Civil Enforcement Officers issue Penalty Charge Notices to vehicles where they consider a parking contravention has occurred. To prevent Civil Enforcement Officers being open to criticism of inconsistency, favouritism or bribery, it is not appropriate for them to be able to exercise discretion in the majority of cases. Motorists who are able to move their vehicles before a Penalty Charge Notice is affixed should not assume that a Charge will not be issued. The Traffic Management Act (2004), allows for the issue of Penalty Charge Notices by post if a Civil Enforcement Officer is unable to affix the Notice to the vehicle before it leaves.

**2.1** Discretion is required for incidences of loading or unloading. Typically 20 minutes maximum is allowed for legitimate loading or unloading on-street. This activity will be observed and a Penalty Charge Notice issued if there is no evidence that loading or unloading is in progress.

#### OBSERVATION

- (i) Prior to a Penalty Charge Notice being issued, a Civil Enforcement Officer may allow a period of 5 minutes to elapse between first observing the vehicle and the issue of the Penalty Charge Notice. This is to satisfy the Officer that loading or unloading is not taking place, where this is permitted. With certain contraventions, however, this observation time is not appropriate. Furthermore, the Councils reserve the right to reduce or remove the observation time to address local problems. An example would be where drivers persistently contravene parking restrictions to access a cashpoint, or where short term waiting obstructs dedicated bays such as disabled or loading bays. The list of all current parking contraventions (Version 6.5) together with the appropriate code and typical observation times is shown in Figure 1.

#### PENALTY CHARGE NOTICES

**3.1** The Traffic Management Act 2004 has introduced differential Penalty Charge Notices. Notices are categorized as 'Higher' or 'Lower' dependent on the severity of the parking infringement. Higher penalties are payable at £70 and lower penalties at £50. These categories are as determined in National Guidance. Figure 1 indicates where the higher or lower penalties apply and the typical observation times.

FIGURE 1 - CONTRAVENTION CODES AND OBSERVATION TIMES

On Street Codes	Typical Observation Time	Contravention	Differential Level
01	5 minutes	Parked in a restricted street during prescribed hours	Higher
02	0 minutes	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	Higher
04	5 minutes	Parked in a meter bay when penalty time is indicated	Lower
05	5 minutes	Parked after the expiry of paid for time	Lower
06	5 minutes**	Parked without clearly displaying a valid pay and display ticket or voucher	Lower
07	5 minutes	Parked with payment made to extend the stay beyond initial time	Lower
08	0 minutes	Parked at an out-of-order meter during controlled hours	Lower
09	0 minutes	Parked displaying multiple pay and display tickets where prohibited	Lower
10	5 minutes	Parked without clearly displaying two* valid pay and display tickets when required	Lower
11	5 minutes	Parked without payment of the parking charge	Lower
12	5 minutes	Parked in a residents' or shared use parking place or zone without clearly displaying either a permit or voucher or pay and	Higher

		display ticket issued for that place	
13		--- Reserved for TfL use (low emission zone) ---	
14	5 minutes	Parked in an electric vehicles charging place during restricted hours without charging	Higher
16	5 minutes	Parked in a permit space without displaying a valid permit	Higher
18	0 minutes	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Higher
19	5 minutes	Parked in a residents' or shared use parking place or zone displaying an invalid permit, an invalid voucher or an invalid pay and display ticket	Lower
20	5 minutes	Parked in a loading gap marked by a yellow line	Higher
21	0 minutes	Parked in a suspended bay or space or part of bay or space	Higher
22	5 minutes	Re-parked in the same parking place or zone within one hour*** of leaving	Lower
23	0 minutes	Parked in a parking place or area not designated for that class of vehicle	Higher
24	0 minutes	Not parked correctly within the markings of the bay or space	Lower
25	5 minutes	Parked in a loading place during restricted hours without loading	Higher
26	0 minutes	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	5 minutes	Parked in a special enforcement area adjacent to a dropped footway	Higher
30	5 minutes	Parked for longer than permitted	Lower
34	0 minutes	Being in a bus lane	
35	5 minutes	Parked in a disc parking place without clearly displaying a valid disc	Lower
36	5 minutes	Parked in a disc parking place for longer than permitted	Lower
40	0 minutes	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge	Higher
41	5 minutes	Parked in a parking place designated for diplomatic vehicles	Higher
42	0 minutes	Parked in a parking place designated for police vehicles	Higher
45	0 minutes	Parked on a taxi rank	Higher
46	0 minutes	Stopped where prohibited (on a red route or clearway)	Higher
47	0 minutes	Stopped on a restricted bus stop or stand	Higher
48	0 minutes	Stopped in a restricted area outside a school when prohibited	Higher
49	0 minutes	Parked wholly or partly on a cycle track or lane	Higher
55	5 minutes	A commercial vehicle parked in a restricted street in contravention of the Overnight Waiting Ban	Higher
56	0 minutes	Parked in contravention of a commercial vehicle waiting restriction	Higher
57	0 minutes	Parked in contravention of a coach ban	Higher
61	5 minutes	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	Higher
62	0 minutes	Parked with one or more wheels on or over a footpath or any part of a road other than a carriageway	Higher
63	0 minutes	Parked with engine running where prohibited	Lower
99	0 minutes	Stopped on a pedestrian crossing or crossing area marked by zigzags	Higher

Off Street Codes	Typical Observation Time	Contravention	Differential Level
70	5 minutes	Parked in a loading area during restricted hours without reasonable excuse	Higher
73	5 minutes	Parked without payment of the parking charge	Lower
74	0 minutes	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Higher
77		--- Reserved for DVLA use ---	

80	5 minutes	Parked for longer than the maximum period permitted	Lower
81	0 minutes	Parked in a restricted area in a car park	Higher
82	0 minutes	Parked after the expiry of paid for time	Lower
83	5 minutes	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	Lower
84	0 minutes	Parked with additional payment made to extend the stay beyond time first purchased	Lower
85	0 minutes	Parked in a permit bay without clearly displaying a valid permit	Higher
86	0 minutes	Parked beyond the bay markings	Lower
87	0 minutes	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	Higher
89	0 minutes	Vehicle parked exceeds maximum weight or height or length permitted in the area	Higher
90	0 minutes	Re-parked within one hour*** of leaving a bay or space in a car park	Lower
91	0 minutes	Parked in a car park or area not designated for that class of vehicle	Higher
92	0 minutes	Parked causing an obstruction	Higher
93	0 minutes	Parked in car park when closed	Lower
94	5 minutes	Parked in a pay and display car park without clearly displaying two* valid pay and display tickets when required	Lower
95	5 minutes	Parked in a parking place for a purpose other than the designated purpose for the parking place	Lower
96	5 minutes	Parked with engine running where prohibited	Lower

\* Or other number required

\*\* Motorists are not permitted time to obtain change away from the immediate area of the P&D machine or car park. Civil Enforcement Officers 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.

\*\*\* or other specified time.

#### PENALTY CHARGE NOTICE - CONTENT

**4.0** The Penalty Charge Notice will contain all details as stipulated under National Guidance and a number of photographs will be taken to clearly show both the registration number and the parking contravention. Recipients of Penalty Charge Notices will be given the option of paying the Notice via telephone (0345 520 1357), pay online, via cheque payable to Nottinghamshire County Council posted to The Central Processing Unit, P.O. Box 10282, Sutton-in-Ashfield, NG17 0DX or in person at the appropriate District or Borough Council Offices.

#### EXEMPTIONS TO CONTRAVENTIONS

##### EXEMPTIONS

**5.0** The following vehicles are exempt from certain on-street parking restrictions:

- (i)** Police, Fire and Rescue Service or Ambulances whilst attending emergency situations.
- (ii)** Vehicles involved in contracted highway maintenance where there is a demonstrable need for them to be parked adjacent to the work site.
- (iii)** Liveried council vehicles carrying out statutory authorised duties such as refuse collection, street cleansing and verge maintenance including Civil Enforcement Officer vehicles.
- (iv)** Royal Mail liveried vehicles other than when loading is prohibited. This does not include private vehicles used by postmen/women whilst carrying out letter deliveries. Nor does it include other vehicles engaged in the delivery of postal packets (i.e. Parcel Force and courier companies such as UPS), which must abide by the rules for parking and loading/unloading.
- (v)** Electricity, Gas, Water and Telecommunications suppliers (and/or their appointed contractors), whilst actively laying or undertaking repairs to pipes, cables or other apparatus.
- (vi)** Public Service Vehicles and other company vehicles whilst waiting at an authorised stopping place, terminus or turning point.
- (vii)** Glaziers involved in emergency repair work that must be parked in close proximity to the premises.
- (viii)** Official vehicles for funerals and weddings at church or place of worship where loading is not prohibited (i.e. a hearse and cortege vehicles or bridal car but not private vehicles of those attending).
- (ix)** Permit holders in a relevant part of a controlled street.

Whenever practical, vehicles in (ii) and (v) above should be located in a signed work site.

Enforcement of these activities is usually the responsibility of Highway Network Inspectors who can use powers provided by the Highways Act and New Roads and Street Works Act.

Generally, exempt vehicles should be liveried rather than private cars or unmarked vans and the exemptions do not apply to sub-contractor's vehicles unless specified above. Any Penalty Charge



Notices issued will only be cancelled with the production of appropriate evidence that an exemption was applicable.

#### PERMITS AND BADGES

**5.1** In accordance with published guidelines, Nottinghamshire County Council will issue permits and badges for parking where appropriate. These will include the following:

**(i)** Blue badges for those with severe mobility problems

see [www.direct.gov.uk/en/DisabledPeople/MotoringAndTransport](http://www.direct.gov.uk/en/DisabledPeople/MotoringAndTransport)

**(ii)** Special Access Permits. These may be issued to allow access and/or parking by:

- a) those with severe mobility issues into certain pedestrianised areas or
- b) businesses to load in certain restricted streets where it is evident that the nature of the business is such that these deliveries cannot be made outside these restrictions.

**(iii)** Residents Parking Permits. These are issued in accordance with NCC policy for:

- a) residents living within the boundaries of a residents parking scheme or
- b) residents' visitors within schemes that provide for visitor permits.

The above permits and badges will be issued solely by the County Council. For all enquiries applicants should in the first instance telephone 01623 434519.

For long-term permits for off-street car parking applicants should contact the appropriate District or Borough Parking Manager.

#### DISPENSATIONS

**5.2** Dispensations for parking at restricted times or in restricted locations may also be granted in certain circumstances. A charge may be applicable. According to the nature of the activity, dispensations may be for a specified period or activity. These may include the following:

(i) Maintenance, building, excavation and demolition work (builders, scaffolders)

(ii) Workshop vehicles with a demonstrable need to be in a particular vicinity (joiners, plumbers, appliance repairers, vehicle based window cleaning)

(iii) Filming operations

(iv) Any other reason accepted by the Council.

**5.3** Applications for dispensations must be received at least 5 working days prior to the required date and must be made to the Council's Parking Manager. The Council's decision is final.

**5.4** The dispensation will stipulate on which streets and at what times it is applicable. It is not therefore a general parking permit. Additional terms and conditions may be specified. Penalty Charge Notices will be issued when the conditions are not met.

**5.5** Unless there are significant extenuating circumstances, discretionary dispensations will not be issued for continuous periods in excess of 14 calendar days. Further dispensations issued beyond this period for continuing work will incur additional costs as 5.7.

**5.6** If granted, dispensations will be issued to the applicant by way of printed permit, which must be clearly displayed on the vehicle whilst parked. The permit details will be entered into the Penalty Charge Notice issuing software where it will be visible to all Civil Enforcement Officers.

**5.7** A charge, per dispensation issued, may be made. A full list of charges will be available on application from the appropriate District Parking Manager.

**5.8** Discretionary permits will not be issued to Members or Officers of any Council for routine work or other purposes and will only be issued for the essential statutory or other requirements detailed above.

**5.9** Discretionary permits will not be issued for locations where there is any possible danger to pedestrian or highway safety, for example;

(i) on bends

(ii) on the brow of hills or where forward visibility is compromised

(iii) On clearways or roads subject to speed limits in excess of 40mph

(iv) Adjacent to pedestrian crossing points

(v) Adjacent to school entrances

(vi) Where pedestrian visibility is impaired

(vii) Where Police, military or other safety could be compromised.

#### SUSPENSIONS

**6.0** Designated parking bays, on or off-street, may be suspended for the following reasons:

- To allow maintenance of adjacent property where highway access is required for deliveries, essential vehicles, skips etc. (Cars will not be considered as "essential vehicles" and will be expected to park in accordance with parking restrictions)
- Maintenance to highway trees
- At the request of the Police
- For security reasons
- Any other reason accepted by the Council

**6.1** Applications for suspensions must be received at least ten working days prior to the required date and must be made to the appropriate Council's Parking Manager. The Council's decision is final.

**6.2** If granted, suspensions of parking bays / spaces will be clearly signposted by means of temporary signs which will indicate exact location and extent of the suspension with the start and finish dates and times. These signs will be displayed at least five days before the suspension comes into operation. Further all adjacent properties will receive advanced notice of the suspension.

**6.3** Vehicles parked in contravention of a suspension will receive a Penalty Charge Notice.

#### BROKEN DOWN VEHICLES

**7.0** A note left in the windscreen, stating that "the vehicle has broken down", will not be accepted by the Civil Enforcement Officer as a reason for not issuing a Penalty Charge Notice. With the exception of where a vehicle is in the process of being repaired at the roadside, a Civil Enforcement Officer will issue a Penalty Charge Notice and the driver will be required to include within the representation details of the breakdown for consideration. Further details on the appropriate supporting evidence are given in Section 2.

#### BLUE BADGE HOLDERS

**8.0** Blue badges are issued to either a disabled driver or a disabled passenger. They can only be used when the vehicle is being used to transport the disabled person. It is not permitted to use the badge for any other purpose for example,, shopping for the disabled person when they, themselves are not being transported in the vehicle.

**8.1** Blue badges must be clearly and properly displayed whilst the vehicle is parked.

**8.2** Failure to do so will result in a Penalty Charge Notice being issued for the contravention of the appropriate parking restriction. Further details on how any representations will be addressed by the Council are covered in Section 2.

**8.3** Providing the Disabled Badge is clearly and properly displayed the Badge Holder can park in:

- Limited parking areas: For an unlimited time.
- Yellow Lines: For a period not exceeding three hours.
- Council Car Parks: In accordance with details provided on the car park information boards.

**8.4** Disabled Badge Holders are not allowed to park in any area where there is a loading restriction.

**8.5** Parking must always be in accordance with the Blue Badge Scheme

**8.6** Civil Enforcement Officers now have the right to inspect Blue Badges for authenticity.

## Section 2 - Penalty Charge Notices – Processing and appeals

In Nottinghamshire, all Penalty Charge Notices issued are dealt with by a single Penalty Charge Notice processing centre operated by the Notts Parking Partnership (NPP). This will ensure a clear and consistent approach to processing across the county. Although the processing centre undertakes the majority of the administrative process, the Authority that issues the Penalty Notice is responsible for determining any formal appeal and is involved accordingly.

The following section details how Penalty Charge Notices are processed with statutory requirements and local performance criteria. It will give information on typical representations and the mitigating circumstances that are considered when dealing with these.

### PENALTY CHARGE NOTICE: ADMINISTRATIVE PROCESS

**9.1** At the date of this Guidance, the Penalty Charge in the County is set at £70 for higher level contraventions and £50 for lower level contraventions both on and off-street. In accordance with National Guidance, a discount amount of 50 percent of the penalty charge is available within 14 days of Penalty Charge Notice issue.

**9.2** Payment is accepted by the NPP (Notts Parking Partnership) in a variety of ways. The Penalty Charge Notice contains information on how to pay via the internet, by telephone or by post to the processing centre. Once full payment is accepted by the NPP, the case is closed on that date and all further enforcement action ceases.

**9.3** As a general rule the NPP will not offer either extended time in which to pay Penalty Charge Notices nor will they enter into instalment payment arrangements. The Bailiff companies will offer instalment payment options.

**9.4** The penalty charge is usually payable by the owner of the vehicle except if the vehicle was hired at the time of the contravention. The charge is not payable if criminal proceedings have been taken or a Fixed Penalty Notice issued by the Police with respect to the contravention.

**9.5** If no payment or [informal challenge](#) is received before the end of the 28 day period specified as the period for payment on the PCN, a Notice to Owner may be issued. Details of vehicle ownership will be supplied by the DVLA. Included with the Notice to Owner will be copies of all evidence relating to the Penalty Charge Notice issue including photographs to reduce the likelihood of unfounded representations.

**9.6** Should a Penalty Charge Notice be issued on a vehicle with a diplomatic registration plate, then the Notice to Owner will not be sent but a record of the charge will be kept and passed to the Foreign and Commonwealth Office annually for pursuit.

**9.7** If the Penalty Charge Notice has not been paid within 28 days of the Notice to Owner being issued and no representation or appeal is being considered, then a Charge Certificate can be issued. This will increase the lower level charge from £50 to £75 and the higher level charge from £70 to £105.

**9.8** If the penalty charge is not paid 14 days after the Charge Certificate has been issued, the authority can apply to the Traffic Enforcement Centre at Northamptonshire County Court to register the debt. The current registration fee of £7 is added to the debt.

**9.9** If payment continues to be withheld, the debtor is sent an Order for Recovery and Witness Statement advising of a further 21 day period to either pay the debt or complete a Witness Statement.

**9.10** A Witness Statement must be witnessed by a Justice of the Peace or Commissioner for Oaths. It is a criminal offence to file a false Statement knowingly or willingly. There are only 4 grounds for making a Witness Statement;

(i) The Notice to Owner was not received. If this is accepted by the Court, the issuing authority must re-issue the Notice and re-set the penalty charge to either £50 or £70

(ii) A formal representation was made to the enforcement authority but the rejection notice was not received. If accepted, the enforcement authority must then treat the case as a formal appeal and forward all relevant paperwork to the Traffic Penalty Tribunal.

(iii) An appeal was made to Traffic Penalty Tribunal but no response has been received. If accepted, all paperwork is to be forwarded to Traffic Penalty Tribunal to determine.

(iv) The penalty charge to which the Charge Certificate relates has been paid in full.

**9.11** Failure to either pay or complete a Witness Statement will result in the authority applying for a Warrant of Execution from the Traffic Enforcement Centre.

**9.12** Once a warrant of Execution is issued, the authority will instruct approved bailiffs to collect the debt on their behalf. Read more information about the [use of bailiffs \[PDF 43KB\]](#).

## APPEALS PROCEDURE

This section of this Guidance contains information on how appeals are addressed by the Notts Parking Partnership and the Penalty Charge Notice issuing authorities. This is not prescriptive guidance as it is recognised that each case must be assessed on its own merits. All grounds for cancellation submitted will be considered fairly and objectively. The advice that follows should therefore be regarded as guidance only on the likely grounds for appeal and the type of evidence that would best support each case.

The liability to pay the Penalty Charge may be disputed at **three** distinct stages:

- (i) After the Penalty Charge Notice has been issued but before the Notice to Owner is served. This is known as an [informal challenge](#) (or Pre-NtO challenge).
- (ii) After the Notice to Owner has been served. This is known as a [formal representation](#).
- (iii) If a formal representation is rejected, the vehicle owner may then appeal to the [Traffic Penalty Tribunal \(TPT\)](#).

**10.1** The Authority that issued the Penalty Charge Notice has the power of discretion to cancel the Penalty Charge Notice at any point in the process even if it established that a contravention did occur. Each District and Borough Council has therefore, a nominated Parking Manager within the authority able to cancel Penalty Charge Notices. Such discretion will however take into consideration this guidance which has been approved by the Members of each participating authority.

**10.2** The Penalty Charge Notice as issued contains information explaining how the penalty charge may be challenged. This must always be in writing to the Central Processing Unit, P.O. Box 10282, Sutton-in-Ashfield, NG17 0DX. In the first instance, this will be as an informal challenge.

### INFORMAL CHALLENGE

**10.3** An informal challenge can be made at any time after the issue of the Penalty Charge Notice up to the serving of the Notice to Owner. The Notice to Owner is issued by the Authority to the registered owner using details supplied by the DVLA a minimum of 28 days after the Penalty Charge Notice has been issued. You can make this challenge using the [informal challenge form](#).

**10.4** The NPP (Notts Parking Partnership) will endeavour to respond, in writing, within 3 weeks of receipt of the challenge and must either give notification of acceptance of the challenge and cancellation of the Penalty Charge Notice or rejection of the challenge.

**10.5** If a challenge is rejected, the written notification from the NPP must give precise reasons why this decision has been reached. If a challenge is rejected, the discounted rate is usually offered again for a further period of 14 days but this is at the Authority's discretion.

**10.6** The making of a challenge in no way detracts from the ability of the registered owner to make a subsequent formal representation against the issue of the Penalty Charge Notice to the NPP or to the Traffic Penalty Tribunal.

#### FORMAL REPRESENTATION

**10.8** When the **Notice to Owner** is issued as detailed in paragraph 9.5, the vehicle owner will be provided with information on the statutory grounds for appeal. As with informal challenges, formal representations must be in writing. The statutory grounds to appeal are detailed under 11.1 and in National Guidance.

More details on these [grounds for appeal](#) or representation are given in the next section together with supporting evidence that would be appropriate to the case. Furthermore, the list contains advice on a further area for appeal; mitigating circumstances. As stated above, it is recognised that each case is different and situations occur that are beyond the control of the motorist and in which cases it would be unreasonable to pursue the Penalty Charge Notice. This cannot be an exhaustive list but it does offer guidance on likely scenarios that would warrant cancellation of the Penalty Charge Notice.

#### [Make a formal representation](#)

#### TRAFFIC PENALTY TRIBUNAL APPEAL

**10.9** Further to a formal representation being made, the Council will issue either a written Notice of Acceptance or Rejection:

(i) Notice of Acceptance: This will confirm that the representation has been accepted and that the person's liability to pay the Penalty Charge has been cancelled.

(ii) Notice of Rejection: This formally rejects the representation and gives detailed reasons why the Council have come to this conclusion. The rejection is also accompanied with the



necessary forms and instruction on how a further appeal can be made to the independent Traffic Penalty Tribunal (TPT). This appeal should be made within 28 days of receipt of the notice of rejection.

**10.10** Should the appellant decide to progress the appeal to the TPT, they will be able to decide whether to proceed with a written appeal, a telephone appeal or attend a hearing to put their case in person. An independent parking adjudicator from TPT will consider the case in due course and his or her decision is considered final, subject to review by another parking adjudicator or the High Court in certain circumstances. Further information on the appeals procedure can be found on the TPT website at [www.trafficpenaltytribunal.gov.uk](http://www.trafficpenaltytribunal.gov.uk).

#### GROUNDS FOR APPEAL

##### CAR OWNERSHIP

**11.1** The recipient has never been the owner of the vehicle in question

Representations are likely to be accepted if the DVLA confirms that the motorist was not the registered keeper at the time of the contravention.

**11.2** The recipient had ceased to be the owner before the date of the contravention

Representations are likely to be accepted if the current registered keeper is able to provide proof that that the vehicle was sold or otherwise disposed of before the date of the contravention. Such documentation could include a bill of sale, registration or insurance documents or a letter from the DVLA. Furthermore, the registered owner should be able to provide details of the previous owner to whom, if verified, a new Notice to Owner can be sent.

**11.3** The recipient had become the owner after the date of the contravention

Similarly, representations are likely to be accepted if the current registered keeper is able to provide proof that that the vehicle was purchased after the date of the contravention. Such documentation could include an invoice, registration or insurance documents or a letter from the DVLA. The new owner should be able to provide details of the previous owner whereupon a new Notice to Owner can be issued.

##### THE CONTRAVENTION DID NOT OCCUR

**12.1** The recipient claims that the alleged contravention did not occur.

This means that the Penalty Charge Notice was issued incorrectly because no illegal parking took place. For example, an appellant may claim that the Civil Enforcement Officer was wrong because:

(i) The motorist was loading or unloading at a time when it is allowed but the Civil Enforcement Officer did not notice this.

Representations are likely to be accepted if it is proven that the goods delivered were heavy, bulky or so numerous that it would not be reasonable to use a legal parking place. Furthermore, such loading would need to be close to the premises concerned and timely. However, appellants should be aware that where the prevailing Traffic Regulation Order specifically prohibits loading, on taxi ranks, bus stop clearways or in car parks where a valid ticket has not been purchased then such activity is unlikely to warrant cancellation of the Penalty Charge Notice.

(ii) The motorist had a disabled badge on display but the Civil Enforcement Officer did not see it.

It is the motorist's duty to ensure that disabled badges are clearly displayed. However, proof of ownership and a first offence for that contravention is likely to warrant cancellation of the Penalty Charge Notice.

(iii) The signs / markings were not in the correct position or had been damaged or were not visible.

Claims of this nature will be investigated with a site visit and the existing traffic signs and lines will be checked against the appropriate legislation. An assessment will then be made as to the validity of the Penalty Charge Notice.

(iv) The date or registration number is incorrect.

The appellant will be asked to provide a copy of their current valid tax disc which will be checked against the serial number recorded by the Civil Enforcement Officer. If this is shown to be different, then the Penalty Charge Notice is likely to be cancelled.

(v) A Penalty Charge Notice was never served on the vehicle.

It is accepted that Penalty Charge Notices are sometimes maliciously removed from vehicles. The Civil Enforcement Officer should have photographic evidence to support the

correct serving of the Penalty Charge Notice and in most cases the motorist will be given the opportunity to pay at the discounted rate for a period of 14 days from receipt of the notice of rejection.

(vi) The motorist claims that the adjacent pay and display machine was not working.

Claims of this nature can be verified from the service records of the appropriate machine. However, if there was another ticket machine available nearby that was working correctly and evidence confirms that other users had been able to purchase tickets at this time then the Penalty Charge Notice is unlikely to be cancelled.

(vii) The motorist was carrying out building works nearby and had a valid dispensation issued from the appropriate local authority.

As with other tickets and disabled badges, the receipt of a valid dispensation that matches the details of the vehicle is likely to result in a cancellation of the Penalty Charge Notice for a first offence for this contravention.

#### VEHICLE TAKEN WITHOUT CONSENT

**13.0** That the vehicle had been permitted to remain at rest in the parking place by a person who was in control of the vehicle without the consent of the owner.

Representations should in this instance be accompanied with a valid police crime report reference number. Claims that a family member or friend had unauthorized use of the vehicle will also need supporting with evidence that the Police were contacted prior to or soon after the issuing of the Penalty Charge Notice.

#### INVALID TRAFFIC REGULATION ORDER

**14.0** That the relevant designation order is invalid.

Claims made on these grounds are infrequent and are specifically concerned with the correct legal procedure for the making of the Traffic Regulation Order. Claims are likely to be upheld if proof can be provided that the relevant Order that the vehicle was parked in contravention of was not properly constructed. For example, the correct consultation process had not been followed.

#### HIRE VEHICLE

15.0 That the recipient is a vehicle-hire firm and—

(i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and

(ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any Penalty Charge Notice fixed to the vehicle during the currency of the hiring agreement;

Representations are likely to be accepted if the hire company can provide proof that the vehicle was hired at the time of the contravention (with a signed hire agreement that includes the appropriate liability clause for Penalty Charge Notices) and the company can provide the full name and address of the person who hired the vehicle. In these instances, a new Notice to Owner will be sent to the person named by the hire company.

#### PENALTY CHARGE ISSUE

**16.0** That the Penalty Charge exceeded the amount applicable in the circumstances of the case.

Claims would be based upon the contravention codes and differential penalties detailed in Figure 1.

**17.0** In the case where a PCN was served by post on the basis that the Civil Enforcement Officer 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, that no Civil Enforcement Officer was so prevented.

#### ADMINISTRATION

**18.0** 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.

**19.0** That there has been a procedural impropriety on the part of the enforcement authority.

A procedural impropriety is defined as a failure by the enforcement authority to observe any requirement imposed on it by the Traffic Management Act or the Traffic Management Act regulations in relation to the imposition or recovery of a penalty charge or other sums and include, in particular, the taking of any step, whether or not involving the service of a document and the purported service of a Charge Certificate in advance of the timescale set out in the regulations.

#### ABANDONED VEHICLES

**16.0** Where a vehicle remains parked in a restricted area for a period during which 3 or more Penalty Charge Notices are issued for the same contravention, then the Civil Enforcement Officer

will report the vehicle as potentially abandoned to the appropriate District Council. Any issued Penalty Charge Notices will be enforced against the registered keeper unless representations are received that adequately explain the exceptional circumstances leading to the abandonment.

#### BANK VISITS

**17.0** Representations will generally only be accepted in exceptional circumstances where large amounts of cash are being transferred and there were no legal parking spaces available locally.

#### BAD WEATHER

**18.0** Claims that the signs and/or road markings were not visible due to snow, flooding, fallen leaves or other similar causes will generally be accepted if there is evidence to prove that this was the case at the time of the contravention.

#### BROKEN DOWN VEHICLES

**19.0** Claims of alleged breakdown should be accepted if they appear to be unavoidable and, if supporting evidence in the form of one or more of the following is produced:

(i) A garage receipt, on headed paper, properly completed and indicating repair of the alleged fault within a reasonable time of the contravention.

(ii) A till receipt for purchase of seemingly relevant spare parts purchased on or soon after the date of contravention.

(iii) A confirmatory letter from the RAC, AA or other similar motoring organisation.

(iv) The confirmation from the Civil Enforcement Officer that the vehicle was obviously broken down.

Listed below are some areas of contention relative to the alleged breakdown of vehicles:

#### **19.1** Flat battery:

- The receipt for the purchase of a new battery or parts that could cause a flat battery (alternator, solenoid etc.), should be requested. The receipt should not pre-date the date of the contravention or postdate it by an unreasonable length of time.
- In cases where it is alleged that the vehicle was bump/jump started to move it and no other evidence is provided, the Penalty Charge Notice is likely to be enforced.

### **19.2** Flat tyre:

- It is reasonable to expect that in the event of a flat tyre the driver would be with the vehicle and making efforts to change the vehicle's wheel. If the vehicle is left unattended a Penalty Charge Notice is likely to be issued and any appeal will have to specify why the vehicle had been left unattended.
- If the wheel could not be changed because of a mechanical difficulty evidence must be produced from the attending breakdown service supporting this.
- Failure to carry a spare wheel is generally not sufficient reason to cancel a Penalty Charge Notice.

### **19.3** Overheating:

- All cases where it is claimed that the vehicle had overheated due to lack of water are likely to be enforced unless it is directly attributable to a mechanical fault. In such cases evidence of repair should be included with any appeal.

### **19.4** Running out of petrol:

- Unless this is due to a mechanical / electrical fault evidenced by repair all Penalty Charge Notices are likely to be enforced.

If it becomes apparent from previous records that the same owner repeatedly claims that the vehicle had broken down as their grounds for appeal then this will be taken into consideration when deciding any future appeals and the appellant will be informed accordingly.

### **COUNCIL OFFICERS/MEMBERS**

**20.0** Liveried Council vehicles on statutory business are automatically exempt from the parking regulations as stated in paragraph 5.0. All other council officers and members are expected to comply fully with the prevailing regulations. Where appropriate, staff permits for council car parks must only be used whilst on official business and the same criterion for renewing permits applies as detailed in paragraph 32.0.

### **COURT ATTENDANCE**

**21.0** Defendants and jury attendants/witnesses would be expected to park legally taking into consideration the length of time they may be required in attendance. Representations are likely to be accepted from defendants who have received a custodial sentence and have consequently been unable to remove their vehicles.

#### DENTISTS/DOCTORS/HEALTH VISITORS/OTHER MEDICAL

**22.0** Representations are likely to be accepted if the motorist concerned possesses a Medical Dispensation badge (BMA, HEBS) that is recognised and approved by the enforcing authorities. In the absence of any recognised badge, representations are likely to be accepted if proof can be provided that the motorist was responding to an urgent medical call and there was no legal parking space nearby. Owners of the Medical Dispensation badge will be instructed to apply for a dispensation to allow parking within Residents Parking Schemes within the county.

For patients visiting the doctor's surgery, representations are likely to be accepted with written evidence from the doctor explaining the urgency of the visit and the necessity of the patient parking illegally.

#### DROPPING OFF PASSENGERS

**23.0** Except in locations where loading is expressly forbidden by Traffic Regulation Order, any vehicle will be allowed a reasonable length of time to drop off or pick up passengers. Two minutes is generally the accepted time but discretion will be used by the Civil Enforcement Officer to allow for elderly, disabled, those with young children or large amounts of luggage.

#### FUNERAL OR WEDDING

**24.0** Vehicles actively involved in a funeral or wedding will be given due consideration and a Penalty Charge Notice should not be issued. The public are encouraged to seek appropriate dispensations for parking adjacent to crematoriums, cemeteries, churches, registrar offices or other places of worship where these are available. In the unlikely event that a Penalty Charge Notice is issued, representations are likely to be accepted in view of the circumstances.

#### GARAGES

**25.0** If a Penalty Charge Notice is issued to a vehicle whilst left with a garage for repair, this is likely to be enforced unless other mitigating circumstances prevail.

#### GLAZIERS, HACKNEY CARRIAGES/PRIVATE HIRE VEHICLES

**26.0** Representations are likely to be accepted where evidence is provided by the glazing company that emergency work was being undertaken in the vicinity of the contravention.

#### Hackney Carriages/ Private Hire Vehicles

**27.0** The guidance on dropping off passengers will generally apply to hackney carriages and private hire vehicles.

#### HAZARDOUS SUBSTANCES

**28.0** Generally the contraventions applied to loading and unloading will apply. Representations are likely to be accepted where proof is given to the nature of the load and consideration is given to public health and safety.

#### HOLIDAYS

**29.0** Representations are likely to be accepted in instances where the prevailing Traffic Regulation Order has altered or been suspended whilst a motorist is away on holiday. In these cases, receipts for the holiday should be sufficient evidence.

#### HOSPITAL CAR SERVICE

**30.0** Representations from motorists providing a voluntary hospital car service will usually be accepted providing the motorist can supply evidence relating to the journey, the passenger and the organisation they volunteer for.

#### LOADING/UNLOADING

**31.0** As stated under paragraph 2.0 on discretion, where loading is permitted, Civil Enforcement Officers will observe a vehicle to look for evidence that it is taking place. It should be noted that this discretion does not extend to contravening regulations where loading is prohibited. In the event that a Penalty Charge Notice is issued, representations are likely to be accepted where evidence can be provided supporting the delivery or collection of goods/people and in particular the justification for the duration of the activity.

#### PERMITS

**32.0** If the permit (including residents, visitors and special access permits) has expired within 14 days of the Penalty Charge Notice, the Penalty Charge Notice will usually be cancelled. For representations against Penalty Charge Notices issued after this period of grace, it would be expected that evidence of administrative failings on the part of the issuing authority be provided, or details of other reasonably unforeseen circumstances that prevented the normal renewal taking place.

#### POLICE CUSTODY

**33.0** In the event that the owner has been taken into police custody and has consequently been unable to move the vehicle, representations will normally be accepted with written evidence from the relevant Police force.

#### PRIVATE PROPERTY



**34.0** Representations claiming that the vehicle was parked on private land rather than the public highway will be referred to the County Council for verification of the demarcation of the highway boundary. In the event of any continuing dispute, the appellant would be expected to provide appropriate documentary evidence.

Information regarding the status of a highway can be found here: [Adopted roads](#)

#### VANDALIZED VEHICLES

**35.0** Representations are likely to be accepted if the vehicle in question had been vandalized to such an extent that it was not safe to move it. Satisfactory evidence would be either a police crime number or appropriate paperwork from the motoring organisation who removed the vehicle.