

## **APPEALS REPRESENTATION PROCEDURE**

### **1. Considering Representations**

The owner of a vehicle may dispute the issuing of a penalty charge notice (PCN) at three stages, that is:

- (i) Informally, through an informal representation, before a notice to owner (NTO) has been served
- (ii) Formally, by way of a formal representation, once a NTO has been issued
- (iii) By appeal to an independent adjudicator where a formal representation has been rejected

This procedure relates to stages (i) and (ii). The procedure in relation to stage (iii) is governed by the rules relating to the Traffic Penalty Tribunal.

### **2. General Principles**

In dealing with both formal and informal representations, the following principles shall be implemented by officers considering the representations:

- (i) each representation shall be considered on its own merits
- (ii) no account shall be taken of any financial interest in the penalty
- (iii) no account shall be taken of any decisions made at an earlier stage in proceedings
- (iv) each representation shall be considered in a fair and proportionate manner, with due regard to the public interest, and with any reasonable doubts being exercised in the motorist's favour
- (v) representations should be considered and a response given in timely fashion
- (vi) where informal representations are received within the discount period, and subsequently rejected, a further 14 day discount period shall be offered
- (vii) representations received outside the periods permitted for submission shall be accepted where there are valid reasons for delay and there are strong grounds for representations

### 3. **Formal Representations (received)**

The Head of Operational Services who has both the seniority and independence from the practical workings of the Civil Enforcement of Parking operations shall consider all formal representations received to the issue of a Notice to Owner.

Upon receipt of a formal representation, the relevant documents shall be placed before a Senior Officer as defined above within 2 working days of receipt of the representation.

The Senior Officer has a discretion to accept late representations. The Officer should use this discretion in the motorist's favour where there is a valid reason for the delay, and there are arguable grounds for making the representation.

The Senior Officer shall consider firstly whether there are statutory grounds and secondly whether there are discretionary grounds for the cancellation of the notice to owner. The statutory grounds are set out in Regulation 4 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

The Senior Officer shall consider the representation within 15 working days of its receipt.

If the Senior Officer accepts a representation against a notice to owner, the Officer must cancel the NTO immediately and ensure that any sum already paid is refunded.

If the Senior Officer rejects the representation, a Notice of Rejection must be served immediately. This Rejection Notice must clearly inform the person making the representation of the reasons for the decision, as well as setting out that a Charge certificate will be issued unless the PCN is paid or an appeal is made to the Traffic Penalty Tribunal.

### **Cases referred back from the Traffic Penalty Tribunal**

In cases where an adjudicator at the TPT refers the matter back to the Council for re-consideration, on the basis that the authority should have used its discretion to cancel the NTO, the case must be referred to the Chief Executive.

A decision must be made by the Chief Executive within a period of 35 days from the notice of the adjudicator's decision, and any decision shall be made with due regard to the adjudicator's recommendation.

If the adjudicator's recommendation is accepted, the NTO must be cancelled immediately and any sums paid must be refunded.

If the adjudicator's recommendation is not accepted, the appellant and the adjudicator must be notified immediately of

the reasons for the decision, prior to the issuing of a Charge certificate.

#### **4. Cancellation of Penalty Charge Notices**

##### **(a) Statutory Grounds**

Penalty charge notices shall be cancelled where it is clear that the grounds set out in the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 apply, such as where there has been a procedural impropriety in dealing with the alleged contravention.

##### **(b) Discretionary Grounds**

Penalty charge notices may be cancelled, at the discretion of delegated officers, in any appropriate circumstances. The following list sets out examples, but is not exhaustive.

- where a pay and display machine is faulty and no alternative method of payment is available
- the information on the PCN is inadequate or incorrect as a result of an error by the Civil Enforcement Officer
- in relation to an on-street contravention, there is satisfactory evidence that the vehicle has broken down and reasonable steps are being taken to remove it as soon as possible
- the motorist has a valid parking permit or pay & display ticket but has failed to display it. This will be cancelled on the first occasion, but enforced on subsequent issue for the same contravention.
- where a Blue Badge holder fails to display a valid badge as required but provides evidence of his/her holding such a badge. This will be cancelled on the first occasion, but enforced on subsequent issue for the same contravention.