



Cumbria County Council Parking Services



Guidance policies for the enforcement and cancellation of Penalty Charge Notices

The policies in this document provide guidance only

Each case will be considered on its own merits taking into account all of the evidence available and the exceptionality of the circumstances

Index

Section 1	Introduction	3
Section 2	Contravention codes and recommended observation times	4
Section 3	Statutory grounds to make representations (Traffic Management Act 2004, Part 6)	7
Section 4	Mitigating Circumstances	11

Section 1 - Introduction

The following policy guidance document has been prepared in respect of Civil Parking Enforcement. The policies in this document are intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations.

This is consistent with current best practice and aims to provide clarity, consistency and transparency within the enforcement process and compliance with the aspirations of the Traffic Penalty Tribunal and the Local Government Ombudsman.

What is important about these policies is that they represent a foundation upon which fairness and discretion can be applied. The importance of flexibility in these matters has been recognised by the Courts and, as a consequence, decisions made by Councils must not be fettered by being unduly formulaic.

The policies address the following:

- Observation times for enforcement staff.
- The statutory grounds upon which representations may be made.
- Mitigating circumstances.
- The possible acceptance or rejection of representations.

It is important to recognise that each case will be considered on its own merits.

These policies will be subject to ongoing review.

Section 2 - Contravention Codes and Recommended Observation Times

2.1 On street parking

Code	Description	Observation time
01	Parked in a restricted street during prescribed hours	0 min – special circs 5 min – car 10 min – commercial vehicle
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	0 min
12	Parked in a resident's or shared use parking place or zone without either clearly displaying a valid permit or voucher or pay and display ticket issued for that place, or without payment of the parking charge	5 min
16	Parked in a permit space or zone without clearly displaying a valid permit	5 min
19	Parked in a resident's or shared use parking place or zone either displaying an invalid permit or voucher or pay and display ticket or after the expiry of paid for time	5 min
21	Parked wholly or partly in a suspended bay or space	0 min
22	Re-parked in the same parking place or zone within one hour after leaving	0 min
23	Parked in a parking place or area not designated for that class of vehicle	0 min
24	Not parked correctly within the markings of the bay or space	0 min
25	Parked in a loading place or bay during restricted hours without loading	5 min - car 10 min – commercial vehicle
26	Parked in a special enforcement area more than 50 centimetres from the edge of the carriageway and not within a designated parking place	0 min
27	Parked in a special enforcement area adjacent to a footway, cycle track or verge lowered to meet the level of the carriageway	0 min
30	Parked for longer than permitted	0 min
35	35 Parked in a disc parking place without clearly displaying a valid disc (no disc displayed)	0-5 min
	Parked in a disc parking place without clearly displaying a valid disc (disc incorrectly set)	0 min
	Parked in a disc parking place without clearly displaying a valid disc (10 minutes after time of expiry)(expired disc)	0-10 min

40	Parked in a designated disabled person's parking place without displaying a valid disabled person's badge in the prescribed manner	0 min
42	Parked in a parking place designated for police vehicles	0 min
45	Stopped on a taxi rank	0 min
46	Stopped where prohibited (on a red route or clearway)	0 min
47	Stopped on a restricted bus stop or stand	0 min
48	Stopped in a restricted area outside a school, a hospital or a fire, police or ambulance station when prohibited	0 min
49	Parked wholly or partly on a cycle track or lane	0 min
55	A commercial vehicle parked in a restricted street in contravention of an Overnight Waiting Ban	0-5 min
56	Parked in contravention of a commercial vehicle waiting restriction	0 min
61	A heavy commercial vehicle wholly or partly parked on a footway, verge or land between two carriageways	5 min
62	Parked with one or more wheels on or over a footpath or any part of a road other than the carriageway	0 min

2.2 Off street parking

Code	Description	Observation time
70	Parked in a loading place or bay during restricted hours without loading	10 min
73	Parked without payment of the parking charge	10 min
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	0 min
80	Parked for longer than permitted	10 min
81	Parked in a restricted area in a car park	10 min
82	Parked after the expiry of paid for time	10 min
83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	5 min
84	Parked with payment made to extend the stay beyond the initial time	10 min
85	Parked in a permit bay without clearly displaying a valid permit	5 min

86	Not parked correctly within the markings of a bay or space	0 min
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge	0 min
89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area	0 min
90	Re-parked in the same car park within one hour after leaving	0 min
91	Parked in a car park or area not designated for that class of vehicle	0 min
92	Parked causing an obstruction	0 min
93	Parked in car park when closed	0 min
94	Parked in a pay and display car park without clearly displaying two valid pay and display tickets when required	10 min
95	Parked in a parking place for a purpose other than that designated	0 min
96	Parked with engine running when prohibited	0 min

The **observation period** is the time that the vehicle is being observed by the Civil Enforcement Officer to ascertain whether a parking contravention has occurred or to allow a grace period to enable the driver to return to the vehicle following the expiry time on a pay & display ticket, etc.

The **special circumstances** for an observation period applies to locations where short term stopping causes specific problems to traffic flow and obstruction problems e.g. outside a bank, ATM, school, newsagent, takeaway, sandwich shop, etc.

Section 3 - Statutory Grounds to Make Representations (Traffic Management Act 2004, Part 6)

3.1 The alleged contravention did not occur

The motorist claims he/she was loading/unloading

May accept representation Evidence is available/provided to show goods being delivered or collected were heavy, bulky or numerous and it is unreasonable to be expected to carry them from a 'legal' parking place. The evidence should show that the goods were purchased prior to the alleged contravention occurred

Loading/unloading activity was timely (includes checking goods and paperwork but not delayed by unrelated activity)

Is in the course of normal business i.e. commercial delivery/collection, couriers, removal services, etc.

Reject Representation

Parked on a school zig zag marking

Parked on a bus stop clearway

Parked on a taxi rank

Parked on a police only bay

Where loading/unloading is prohibited

Where the Civil Enforcement Officer's notes and photographic evidence show that the PCN was issued prior to the vehicle being driven away

The motorist claims a pay and display ticket machine was faulty

May accept representation If records confirm there was a fault or that the machine was taken out of service

If there is reasonable doubt i.e. no evidence to confirm machine was working at the time or no other working ticket machine in location

Reject representation

If there was another ticket machine nearby that was working correctly at the time

If there are no records showing the machine being faulty or taken out of service

If there is reasonable doubt i.e. other vehicles have been able to purchase and display tickets

The motorist claims the restriction is not clearly signed or marked

May accept representation If signs and lines are not clearly visible

If signs and lines are inconsistent with each other or the Traffic Regulation Order

Reject representation

If site visits and photographic evidence can establish the signs and lines are correct and consistent with each other and the Traffic Regulation Order

The motorist was carrying out building work

May accept representation If evidence provided confirms the motorist was loading/unloading

If a valid waiver had been issued to park at the location

If it can be proven that the work was an emergency

If the work is of a statutory nature or is exempt from the restrictions in the Traffic Regulation Order

Reject representation

All other circumstances

The motorist claims that the Penalty Charge Notice was not served

- | | |
|---------------------------|---|
| May accept representation | If the Civil Enforcement Officer's notes (either pocket notebook or handheld notes) confirm that the vehicle was not issued with a PCN or a Regulation 10 PCN was not issued. (PCN served by post) |
| Reject representation | If the Civil Enforcement Officer's notes or photographic evidence show the PCN was correctly served i.e. fixed to vehicle/handed to motorist or if a Regulation 10 PCN was issued. (PCN served by post) |

The motorist claims that their vehicle was not parked in the location at the time and date the PCN was issued

- | | |
|---------------------------|--|
| May accept representation | If there is evidence to support the claim |
| Reject representation | If there is no evidence or the evidence does not support the claim |

The motorist claims that a valid authorisation to park the vehicle had been issued

- | | |
|---------------------------|--|
| May accept representation | If records show that authorisation to park had been issued or relevant proof is provided |
| Reject representation | If the motorist cannot provide proof of authorisation or there are no records of authorisation being issued

If the motorist did not park in accordance with the authorisation given |

The motorist claims a valid pay and display ticket was purchased and displayed

- | | |
|---------------------------|---|
| May accept representation | If the motorist produces a valid pay and display ticket and the serial number matches the one noted by the Civil Enforcement Officer when the Penalty Charge Notice was issued (shown in handheld notes) |
| Reject representation | If the motorist is unable to produce a valid pay and display ticket that matches the one noted by the Civil Enforcement Officer when the Penalty charge Notice was issued

If the Civil Enforcement Officer was unable to confirm there was a pay and display ticket and the serial number of that ticket |

3.2 I was never the owner of the vehicle in question

The current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention

- | | |
|---------------------------|--|
| May accept representation | When formal documentary evidence is supplied i.e. hire agreement |
| Reject representation | In all other circumstances |

The motorist claims that they never owned the vehicle

- | | |
|---------------------------|--|
| May accept representation | If DVLA confirm the motorist was not the registered keeper at the time of the contravention |
| Reject representation | If DVLA confirm that the motorist was the registered keeper at the time of the contravention |

3.6 We are a hire firm and the vehicle was on hire under a hiring agreement and the hirer had signed a statement acknowledging liability for any PCN issued during the hiring period

May accept representation If the hire company can provide proof that the vehicle was hired at the time of the contravention (N.B send a NTO to the person named by the hire company)

Reject representation If the hire company is unable to prove that they hired out the vehicle on the date of the contravention

If the person named by the hire company (proof not provided) does not exist, cannot be traced or denies responsibility for the contravention

3.7 The penalty charge exceeded the amount applicable in the circumstances of the case

May accept representation If the Penalty Charge Notice or Notice to Owner shows an incorrect amount

Reject representation If the Penalty Charge Notice or Notice to Owner shows the correct amount

3.8 There has been a procedural impropriety by the enforcement authority

May accept representation If the motorist can show that the enforcement authority did not follow the correct procedures as set out in the legislation.

Reject representation In all other circumstances

3.9 The order which is alleged to have been contravened in relation to the vehicle concerned is invalid

May accept representation If the Traffic Regulation Order which prescribes the parking restrictions that the vehicle was in contravention of was not constructed correctly (is ultra vires), or was not made correctly (not consulted on properly)

Reject representation The Traffic Regulation Order, which prescribes the restrictions that the vehicle was parked in contravention of, was constructed and made correctly

If the motorist considers the restrictions to be unfair

3.10 This notice should not have been served because the penalty charge had already been paid in full/at the discounted rate and within the time specified on paragraph 1(h) of the schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007

May accept representation If the motorist provides documentary evidence of payment of the penalty charge within the specified time

Reject representation In all other circumstances

3.11 Any other information that the motorist/vehicle owner wants the Council to take into consideration

The decision whether or not a Penalty Charge Notice should be waived will only be taken following very careful consideration taking into account all of the evidence available

Section 4 - Mitigating Circumstances

4.1 The motorist claims to have become unwell while driving

May accept representation	<p>If the motorist can provide proof of a medical condition, temporary or permanent, consistent with the conditions described and was affected by the condition at the time of the contravention</p> <p>If the notes made by the Civil Enforcement Officer correspond with the motorist's representation</p>
Reject representation	<p>If the motorist cannot provide some proof of a medical condition, temporary or permanent, consistent with the conditions described which affected them at the time of the contravention</p> <p>Where other evidence contradicts the motorist</p>

4.2 The motorist claims to be a doctor, nurse or health visitor visiting a patient

May accept representation	<p>If the motorist concerned possesses a Medical Dispensation Badge (BMA, HEBS, etc) or is exempt under the relevant Traffic Regulation Order</p> <p>If the motorist produces evidence that they were responding to an urgent medical call</p>
Reject representation	<p>If the motorist was not attending the patient in urgent circumstances</p> <p>If the motorist was parked outside their practice or place of work</p> <p>If the motorist was parked in an area that does not correspond with the representation made i.e. parked far from patient's property</p>

4.3 The motorist stopped to use the toilet

May accept representation	On production of medical evidence confirming a relevant medical condition and in support of the circumstances described in the representation
Reject representation	In all other circumstances

4.4 The motorist stopped to collect prescribed medication from a chemist

May accept representation	Only in the most grave and exceptional circumstances where the use of a legal parking place would have caused an unacceptable delay
Reject representation	In any lesser circumstances

4.5 The motorist was a patient visiting a doctor's surgery

May accept representation	If the motorist can provide a letter from the doctor to confirm that the visit was very urgent and that they were unable to walk from the nearest legal parking place
Reject representation	<p>If the motorist was not the patient but only the driver of the vehicle</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>

4.6 The motorist claims to have been recently bereaved

May accept representation	If no evidence exists to the contrary, taking into account the sensitivity of this issue
Reject representation	Only if there is a significant reason to doubt the representation, i.e. the Civil Enforcement Officer notes indicate the motorist was going about a normal day shopping, working If the bereavement was considered to be a long time ago

4.7 The motorist was delayed in returning to their vehicle and the parking time had expired

May accept representation	The motorist's representation claims that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional (appropriate evidence must support this) If the motorist's vehicle had broken down (documentary evidence to support this required) If the motorist was unable to drive since parking the vehicle (documentary evidence to support this required)
Reject representation	If the delay described by the motorist was avoidable i.e. queuing in a shop for a non essential item If the motorist simply under estimated the parking time required If the motorist was unable to drive since parking the vehicle due to excess alcohol in the body or had been detained and charged by the police

4.8 The motorist left the vehicle parked without a valid ticket on display to obtain change

May accept representation	If the motorist had not left the car park area and a valid ticket was purchased and produced
Reject representation	If the Civil Enforcement Officer's notes indicate the motorist returned to the vehicle having completed their purpose for parking, i.e. carrying shopping or left car park area to obtain change

4.9 The motorist claims to have been unaware of charges or restrictions in the car park relating to the vehicle's class, weight or height

May accept representation	If car park notice boards are incorrect or missing If tariff information is incorrect or missing
Reject representation	In all other circumstances

4.10 The motorist claims to have been unaware of a recent tariff rise

May accept representation	If statutory notices were not erected in accordance with procedural regulations If revised tariff is not displayed correctly in car park
Reject representation	If statutory notices were erected in accordance with procedural regulations Revised tariff correctly displayed in car park

- 4.11 The motorist had parked with one or more wheels outside the markings of a bay or space**
- | | |
|---------------------------|--|
| May accept representation | Only in the most exceptional circumstances that were out of the motorist's control and supported by incontrovertible evidence
Where photographic evidence is not available
In no other circumstances |
| Reject representation | When clear photographic evidence is available
When Civil Enforcement Officer's notes state vehicle out of bay |
- 4.12 The motorist is a Blue Badge holder/transporting a Blue Badge holder and they did not have their Blue Badge on display correctly**
- | | |
|---------------------------|--|
| May accept representation | If there were significant mitigating measures |
| Reject representation | If the motorist has previously had a Penalty Charge Notice cancelled
If the Civil Enforcement Officer's notes and photographic evidence show that there was no badge displayed in the vehicle |
- 4.13 The motorist is a Blue Badge holder/transporting a Blue Badge holder and they did not have their clock disc on display with the Blue Badge**
- | | |
|---------------------------|---|
| May accept representation | If the motorist was parked within the disc parking zone or in an off street car park where there is no requirement to display a clock disc with the Disabled Person's Badge |
| Reject representation | If the motorist was parked on a yellow line (3 hour parking restriction).
Any other time restricted parking |
- 4.14 The motorist was displaying an expired authorisation to park, i.e. resident's permit, visitor permit, business permit, etc**
- | | |
|---------------------------|---|
| May accept representation | If the renewal of the authorisation was delayed by the Council's administrative processes

If it can be established that other reasonably unforeseen circumstances delayed the renewal of an authorisation i.e. postal disputes (must be supported by documentary evidence) |
| Reject representation | In all other circumstances |
- 4.15 The motorist is parked in a disc zone without displaying a valid clock disc/permit**
- | | |
|---------------------------|---|
| May accept representation | If the motorist can provide documentary evidence to support loading/unloading activity

If the motorist can provide documentary evidence of a medical emergency |
| Reject representation | In all other circumstances |

4.16 The motorist assumed that they were entitled to ‘a period of grace’ prior to a Penalty Charge Notice being issued

May accept representation	In no circumstances
Reject representation	In all circumstances

4.17 The motorist claims they were attending a funeral

May accept representation	If no evidence exists to the contrary, taking into account the sensitivity of this issue
Reject representation	Only if significant reason to doubt the sincerity of the representation The Civil Enforcement Officer’s notes state otherwise, i.e. returned to vehicle with shopping bags, etc

4.18 The motorist claims that snow, foliage, fallen leaves or flooding covered the signs and lines

May accept representation	If it can be established that such conditions prevailed and it is likely that signs or lines were obscured as claimed and there was no alternative indication of the parking restriction
Reject representation	If it can be established that such conditions did not cause the signs and lines to be obscured as claimed If the Civil Enforcement Officer’s notes and/or photographic evidence contradicts the motorists version of events

4.19 The motorist claims that their vehicle had broken down

May accept representation	If the motorist is able to provide evidence of a breakdown, i.e. proof of vehicle recovery or bill of sale for repair or parts
Reject representation	If the motorist is unable to provide evidence of any kind that their vehicle had broken down If the Civil Enforcement Officer’s notes contradict the motorists version of events

4.20 The motorist claims that they were attending an emergency or another vehicle that had broken down

May accept representation	If the motorist is able to provide proof of the emergency, i.e. a credible report of an accident or incident
Reject representation	If the motorist is unable to provide evidence of any kind that they were attending an emergency If the Civil Enforcement Officer’s notes contradict the motorists version of events

4.21 The vehicle in question was on police, fire brigade or ambulance duties

May accept representation	If a senior officer of the service involved supports the representation and there is no reason to doubt that the vehicle was involved in operational duties
Reject representation	In all other circumstances

4.22 The motorist claims to have been collecting or depositing monies at a bank

May accept representation	If the motorist's representation is consistent with the allowance for loading unloading If specific arrangements have been agreed
Reject representations	In all other circumstances

4.23 The motorist claims to have been unaware of a temporary parking restriction or special event restriction

May accept representation	If the motorist claims that there was no indication of the temporary restriction and the Civil Enforcement Officer's notes or photographic evidence confirms that the appropriate signage was not in place If the process followed to make the temporary order was defective in some way
Reject representation	If the Civil Enforcement Officer's notes or photographic evidence confirm that the vehicle was parked in an area restricted by the temporary order The appropriate signage was in place and in order

4.24 The registered keeper liable for payment of the Penalty Charge Notice is said to have died

May accept representation	Where the circumstances can be confirmed (by sensitive enquiry)
Reject representation	Only if there is significant evidence to doubt the sincerity of the representation

4.25 The vehicle driven by the motorist is diplomatically registered

May accept representation	In all circumstances
Reject representation	In no circumstances

4.26 The motorist received a Fixed Penalty Notice from a police officer when parked in the same location

May accept representation	If confirmation provided from the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted
Reject representation	In all other circumstances

4.27 The motorist stopped to drop off someone

May accept representation	If the circumstances are seen and noted by the Civil Enforcement Officer If, in exceptional circumstances and subject to observation times, the motorist had to escort a passenger to home or school, i.e. elderly person or disabled person
Reject representation	If motorist was parked/stopped on school keep clear markings, pedestrian crossing or bus stop clearway

4.28 The motorist was unaware of the overnight waiting ban/commercial vehicle waiting restriction

May accept representation	If the motorist was authorised/instructed to park in contravention of the restriction by the police – confirmation required
Reject representation	In all other circumstances

4.29 The motorist states they were in police custody when the Penalty Charge Notice was issued

May accept representation	If proof is received from the police to confirm that they instructed the motorist to leave the vehicle
Reject representation	If no proof provided If vehicle could have been legally parked prior to arrest

4.30 The registered keeper liable for payment of the Penalty Charge Notice is expected to be absent for a long period of time, i.e. living abroad or in prison

May accept representation	In no circumstances
Reject representation	In all circumstances

4.31 The motorist states they were visiting friends/relatives in urgent circumstances

May accept representation	If due to an emergency the parking contravention could not be avoided due to the exceptional nature of the incident (proof required)
Reject representation	If the motorist has already received a Penalty Charge Notice that has been cancelled on the same grounds If the Civil Enforcement Officer's notes provide significant reason to doubt the sincerity of the representation

4.32 The motorist claims they were parked on private property

May accept representation	If land search maps confirm location is private property and therefore not subject to the Traffic Regulation Order If there is insufficient evidence to establish the exact location of the vehicle
Reject representation	In all other circumstances

4.33 The motorist was delayed in returning to their vehicle parked in a limited waiting parking place

May accept representation	<p>If supported by the appropriate evidence, the motorist's representation claims that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional</p> <p>If the motorist's vehicle had broken down (proof required)</p> <p>If the motorist was unable to drive since parking the vehicle (proof required)</p>
Reject representation	<p>If the delay described by the motorist was not exceptional, i.e. queuing in a shop</p> <p>If the motorist simply underestimated the amount of parking time required</p>

4.34 The motorist stopped to answer mobile phone

May accept representation	In no circumstances
Reject representation	On all occasions

4.35 The motorist claims the details on the Penalty Charge Notice are incorrect

May accept representation	<p>If there is reason to doubt the Penalty Charge Notice was not issued correctly</p> <p>Take into account Civil Enforcement Officer's notes and photographic evidence</p>
Reject representation	If the Penalty Charge Notice is fully and correctly completed

4.36 The motorist claims they were unaware of enforcement on bank holidays/public holidays

May accept representation	In no circumstances
Reject representation	On all occasions

4.37 The motorist claims that the restriction was marked after the vehicle was parked

May accept representation	If records confirm that signing/lining/placement of cones or suspension notices are likely to have taken place after the time the vehicle was parked
Reject representation	If there is evidence to show markings were already in place when the vehicle was parked

4.38 The motorist returns to the same parking place within a specified/prohibited time

May accept representation	In no circumstances
Reject representation	On all occasions

