

Appendix B

The Council of the City of Newcastle upon Tyne (“The Council”) Policy for the Consideration of Challenges against Penalty Charge Notices (PCNs)

Statement of Purpose

This document sets out the grounds specified by regulations on which a PCN can be cancelled following representations made by a motorist. Under each specified ground guidance is given on the factors which will influence the Council in deciding whether or not that ground is satisfied.

**Guidelines set out in this document provide direction
only.**

**Each case shall be considered on its own merits, taking into account all of the
evidence available and the individual circumstances.**

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Section A – Specified Grounds to Make Representations (from Regulation 4 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007)

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
SPECIFIED GROUND NO. 1. The contravention did not occur	
1.1 Where the motorist claims that he/she was loading or unloading	
<p>On a waiting prohibition or in a controlled bay and evidence is available to show that:</p> <ul style="list-style-type: none"> • The goods being delivered or collected were heavy, bulky or numerous and it would be unreasonable to expect them to be carried from 'legal' parking places; • The loading/unloading activity was adjacent to the premises concerned; • The loading/unloading activity was timely (which includes checking goods and paperwork, but not delayed by unrelated activity). 	<ul style="list-style-type: none"> • On school zig zag markings; • On bus stop clearways; • On taxi ranks; • On Police bays; • Where loading is prohibited; • In car parks (except when depositing materials in recycling bins); • At all charge parking locations where a valid pay and display ticket was not purchased first.
1.2. Where the motorist claims that a parking pay and display ticket machine was faulty:	
<ul style="list-style-type: none"> • Where service records confirm a fault or that the machine had been taken out of service at the time of the contravention; • If there is reasonable doubt because evidence is not available to confirm that a machine was working at the time and, where directed, there was not another ticket machine nearby which was operating correctly. 	<ul style="list-style-type: none"> • If there was another ticket machine nearby that was working correctly at the time. • If there is no record of the machine being faulty or taken out of service. • If there is reasonable doubt because evidence confirms that other motorists had been able to purchase pay and display tickets at the same location during the relevant period.
1.3. Where the motorist claims that the restriction is not clearly signed or marked:	
<ul style="list-style-type: none"> • If signs and/or markings are missing or unclear; • If signs and markings are inconsistent with each other and/or with the Traffic Regulation Order or other legislation. 	<ul style="list-style-type: none"> • If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and/or the Traffic Regulation Order or other legislation.

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1.4. Where the motorist was carrying out building works:	
<ul style="list-style-type: none"> • If evidence confirms that the motorist was loading/unloading; • If a valid dispensation notice to park at the location in question had been issued and was on display in the vehicle; • If works are of a statutory nature or are exempted from restrictions by a Traffic Regulation Order or legislation; • If it can be proven that works were an emergency. 	<ul style="list-style-type: none"> • In all other circumstances.
1.5. Where the motorist claims that a PCN was not served (i.e. PCN not found attached to vehicle or handed to the driver)	
<ul style="list-style-type: none"> • Where the Civil Enforcement Officer's pocket book, any computer notes and/or photographic evidence confirm that the vehicle drove away or that the CEO was prevented from serving the PCN – in circumstances where the PCN should have been cancelled and replaced by a new PCN which was served by post in accordance with Regulation 10 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007. 	<ul style="list-style-type: none"> • If the Civil Enforcement Officer's pocket notebook, any computer notes and/or photographic evidence confirm that the PCN was correctly served (i.e. fixed to the vehicle or handed to the motorist).
1.6. Where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on the PCN that was issued:	
<ul style="list-style-type: none"> • If the motorist provides a copy of their vehicle excise license, 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. 	<ul style="list-style-type: none"> • If the motorist does not provide a copy of their tax disc, after being given a further opportunity to submit such a copy; or: • If the serial number on the copy tax disc provided by the motorist is identical to the serial number noted by the Civil Enforcement Officer; or • If there is no evidence or the evidence submitted fails to support the claim or is inconclusive.
1.7. Where the motorist claims that a valid authorisation to park had been issued:	
<ul style="list-style-type: none"> • If records show that the motorist holds a valid authorisation to park. 	<ul style="list-style-type: none"> • If the motorist cannot provide a copy of the valid authorisation to park or if there is no record of any issue of the authorisation; • If the motorist did not park in accordance with the terms of the

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	authorisation.
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1.8. Where the motorist claims that a pay and display ticket was purchased and displayed:	
<ul style="list-style-type: none"> If the motorist produces a pay and display ticket that was valid at the time the PCN was issued and it is the first contravention of this kind. 	<ul style="list-style-type: none"> If the motorist is unable to produce a valid pay and display ticket; The motorist has made a similar representation before and had a previous Parking Notice/PCN cancelled as an act of goodwill; The Civil Enforcement Officer noted that the motorist obtained their ticket from another motorist in the parking place.
SPECIFIED GROUND NO.2. The recipient was not the owner/keeper of the vehicle at the time of the contravention	
2.1 Where the motorist claims that they never owned the vehicle:	
<ul style="list-style-type: none"> If the DVLA confirm that the motorist was not the registered keeper at the time of the contravention. 	<ul style="list-style-type: none"> If the DVLA confirm that the motorist was the registered keeper at the time of the contravention; If the previous registered keeper provides proof that the motorist bought the vehicle before the contravention or the subsequent registered keeper provides proof that the motorist sold the vehicle after the contravention; If the motorist is proven to have hired the vehicle for the day on which the contravention occurred and signed an agreement to assume responsibility for PCNs incurred – subject to the time of hire.
2.2 Where the current registered keeper claims that the vehicle was disposed of before the contravention occurred:	
<ul style="list-style-type: none"> If the current registered keeper is able to provide proof that the vehicle was disposed of before the contravention i.e. a bill of sale, registration documents, insurance documents or a letter from the DVLA; and/or If the current registered keeper is able to provide the full name and address of the person to whom they transferred the vehicle and the date of that transfer. 	<ul style="list-style-type: none"> If the current registered keeper is unable to prove that they disposed of the vehicle before the contravention nor provide the name and address of the person to whom they transferred the vehicle to; If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist or is for some reason not considered to be bona fide.

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<p>2.3 Where the current registered keeper claims that the vehicle was purchased after the contravention occurred:</p>	
<ul style="list-style-type: none"> • If the current registered keeper is able to provide proof that the vehicle was purchased after the contravention i.e. an invoice, registration document, insurance documents or a letter from the DVLA; and/or • If the current registered keeper is able to provide the full name and address of the person from whom they purchased the vehicle and the date of that purchase. 	<ul style="list-style-type: none"> • If the current registered keeper is unable to prove that they purchased the vehicle after the contravention nor provide the name and address of the person from whom they bought the vehicle; • If the person named by the current registered keeper as the person to whom they disposed of the vehicle, either does not exist or is for some reason not considered to be bona fide.
<p>SPECIFIED GROUND NO.3. The vehicle was parked without the owner's consent</p>	
<p>3.1 Where the current registered keeper claims that the vehicle had been parked without their consent.</p>	
<ul style="list-style-type: none"> • If the registered keeper provides a valid police crime report reference number to show that the vehicle had been stolen prior to the PCN being issued. 	<ul style="list-style-type: none"> • If the current registered keeper is unable to provide any proof of theft. • If the police crime report reference number provided by the current registered keeper does not exist or it does not match the theft or date of the alleged theft. • If the registered keeper indicates that the vehicle had been used by a member of their family without their consent
<p>SPECIFIED GROUND NO.4. The vehicle is a hire vehicle and was hired out to someone other than the registered keeper at the time of the contravention</p>	
<p>4.1 Where the current registered keeper is a vehicle-hire firm and claims that a contracted third party was responsible for the vehicle at the time of the contravention:</p>	
<ul style="list-style-type: none"> • If the vehicle was hired for a period of less than 6 months, only when a compliant hire agreement exists and is provided. • If the vehicle is hired for a period in excess of 6 months, upon provision of the last-known name and address of the hirer. 	<ul style="list-style-type: none"> • If the hire company are unable to prove that they hired out the vehicle on the date of the contravention and/or do not provide the name and address of the person to whom they hired the vehicle; • If the vehicle was hired out for a period of less than 6 months without an agreement signed to accept responsibility for Penalty Charge Notices issued during the period of the hiring.

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SPECIFIED GROUND NO. 5. The penalty charge exceeded the relevant amount	
5.1 The penalty charge exceeded the relevant amount	
<ul style="list-style-type: none"> • If the PCN and/or Notice to Owner showed the incorrect amount of penalty charge i.e. the wrong penalty charge band. 	<ul style="list-style-type: none"> • If the PCN and/or Notice to Owner showed the correct amount of penalty charge.
SPECIFIED GROUND NO. 6. Procedural Impropriety	
6.1 Where there has been a procedural impropriety on the part of the Council:	
<ul style="list-style-type: none"> • “Procedural impropriety” means a failure by the Council to observe any requirement imposed on it by the Traffic Management Act 2004, by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 or by the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 in relation to the imposition or recovery of a penalty charge or other sum and includes in particular — <ul style="list-style-type: none"> (a) the taking of any step, whether or not involving the service of any document, otherwise than — <ul style="list-style-type: none"> (i) in accordance with the conditions subject to which; or (ii) at the time or during the period when, it is authorised or required by the General Regulations or these Regulations to be taken; and (b) in a case where an enforcement authority is seeking to recover an unpaid charge, the purported service of a charge certificate under regulation 21 of the General Regulations before the enforcement authority is authorised to serve it by those Regulations. <p>The above definition of “procedural impropriety” is taken directly from the legislation – The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007. In plain English, it means cases</p>	<ul style="list-style-type: none"> • If, in the circumstances of the case, no procedural impropriety has taken place.

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where the Council does something it is not authorised to do, does not do something it is required to do, or does something it is authorised to do but at the wrong time.	
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SPECIFIED GROUND NO. 7. The Traffic Regulation Order was invalid	
7.1 The Traffic Regulation Order was invalid	
<ul style="list-style-type: none"> If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was invalid – either not constructed correctly (i.e. is ultra vires) or was not made correctly (i.e. not consulted on properly). 	<ul style="list-style-type: none"> If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was constructed and made correctly. If the motorist merely considers the restrictions to be unfair.
SPECIFIED GROUND NO. 8. Invalid Service of the PCN by post	
8.1 Where the PCN was served by post on the basis that the Civil Enforcement Officer (CEO) was prevented from affixing the PCN to the vehicle or handing it to the owner or person in charge of the vehicle, but that the CEO was not actually prevented from doing so:	
<ul style="list-style-type: none"> If the owner of the vehicle can produce evidence that the CEO was not prevented from serving the PCN by fixing it to the vehicle or by handing it to him/her. 	<ul style="list-style-type: none"> Where it is not proved that the CEO was prevented from serving the PCN by fixing it to the vehicle or by handing it to him/her.
SPECIFIED GROUND NO. 9. The Notice to Owner should not have been served because the penalty charge had been paid	
9.1 Where the Notice to Owner should not have been served on the keeper of the vehicle because the PCN had either been paid in full or had been paid at the discounted rate within the discount period	
<ul style="list-style-type: none"> If the owner can produce a receipt to show that the PCN was paid in time; If the payment was not received in time, if the owner can provide proof that payment was sent in the post before the payment deadline and that the payment should have been received in time in the ordinary course of the post; If the owner can show that payment was sent in time but can provide evidence of postal strikes etc. which unavoidably delayed receipt of the payment. 	<ul style="list-style-type: none"> No payment has been received. Payment in full was made out of time or was made at the discounted rate but outside the discount period and the motorist is unable to produce any evidence that the payment was made before the deadline and/or was delayed in the post.
SPECIFIED GROUND NO.10. Any other compelling reason why the penalty charge should be cancelled	
10.1 In addition to any of the nine grounds listed above, where the motorist believes that there are compelling reasons why, in the particular circumstances of their case, the Council should cancel the Penalty Charge Notice.	
<ul style="list-style-type: none"> The explanation will be looked at carefully and a decision made as to whether or not the PCN will be cancelled, taking into account all of the evidence available. If further information is required to enable the decision to be made, the Council may write to the motorist to request further information or evidence be provided. <p>Examples of what may be considered to be “compelling reasons” are set out in section B.</p>	

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Section B – Examples of “Compelling Reasons”

This list is not exhaustive and the Council will consider **any** representations made on a case-by-case basis before deciding whether the penalty charge will be cancelled.

MAY ACCEPT REPRESENTATIONS	MAY REJECT REPRESENTATIONS
1. Where the motorist claims to have become unwell while driving:	
<ul style="list-style-type: none"> • If the motorist provides proof of a medical condition, temporary or permanent, that is consistent with the conditions described. • When notes made by the Enforcement Officer support the motorist's representations. 	<ul style="list-style-type: none"> • If the motorist cannot provide some proof of a medical condition, temporary or permanent, consistent with the conditions described; or • Where other evidence contradicts the motorist's claims.
2. Where the motorist claims to be a doctor, nurse, health visitor attending a patient:	
<ul style="list-style-type: none"> • If the representation is lodged via an approved Officer within the appropriate organisation (e.g. Primary Care Trust); or • If the motorist produces evidence that they were responding to an urgent medical call and there was no nearby legal parking place. 	<ul style="list-style-type: none"> • If the motorist was not attending a patient in urgent circumstances or if there were legal parking spaces nearby; • If the motorist was parked outside their practice or other place of work for any reason other than to collect supplies for an urgent call; • If motorist was parked in an area, which does not correspond with claims made in representations (i.e. far from patient's property).
3. Where the motorist stopped to use the toilet:	
<ul style="list-style-type: none"> • On production of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation. 	<ul style="list-style-type: none"> • In all other circumstances.
4. Where the motorist stopped to collect prescribed medication from a chemist:	
<ul style="list-style-type: none"> • Only in the most grave, urgent and exceptional circumstances and the use of a 'legal' parking place would have caused an unacceptable delay. 	<ul style="list-style-type: none"> • In any lesser circumstances.
5. Where the motorist was a patient visiting a doctor's surgery:	
<ul style="list-style-type: none"> • If the motorist can provide a letter from the doctor confirming that the visit was very urgent and that they were unable to walk from the nearest legal parking space. 	<ul style="list-style-type: none"> • If the motorist was not the patient but only driving the vehicle carrying the patient; • If the motorist was attending a pre-arranged, non-urgent appointment; • If the motorist could reasonably have been expected to be parked legally elsewhere.

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6. Where the motorist was delayed in returning to their vehicle and the parking time purchased had expired:	
<ul style="list-style-type: none"> • If supported by 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. • If the motorist was unable to drive since parking the vehicle subject to adequate proof being provided. 	<ul style="list-style-type: none"> • If the delay described by the motorist was entirely avoidable (e.g. queuing in a shop); • If the motorist simply underestimated the time needed and could have reasonably purchased more time; • If the motorist was unable to drive since parking due to excess alcohol or illegal substances in the body.
7. Where the motorist fed a meter or pay and display machine in a maximum stay area by buying subsequent time to park in the same place or returned to the same place within a specified and prohibited time period:	
<ul style="list-style-type: none"> • Only in the most grave, urgent and exceptional circumstances. 	<ul style="list-style-type: none"> • In lesser circumstances.
8. Where the motorist claims to have been unaware of charges or restrictions in the car park relating to a vehicle's class or weight:	
<ul style="list-style-type: none"> • If reference to restrictions on tariff board(s) are incorrect or missing. 	<ul style="list-style-type: none"> • In all other circumstances.
9. Where the motorist claims to have been unaware of recent rises in tariff:	
<ul style="list-style-type: none"> • If statutory notices were not erected in accordance with procedural regulations. • If revised tariff is not on the tariff board(s). 	<ul style="list-style-type: none"> • If statutory notices were erected in accordance with procedural regulations and tariff boards were correct.
10. Where the motorist had parked with one or more wheels outside a marked bay in a car park:	
<ul style="list-style-type: none"> • Only in the most exceptional of circumstances supported by evidence. 	<ul style="list-style-type: none"> • When clear and incontrovertible evidence is available.
11. Where the motorist is a blue badge holder/transporting a blue badge holder and they did not have their blue badge and/or clock on display or it could not be read or had expired:	
<ul style="list-style-type: none"> • If evidence is provided that they are a blue badge holder or were transporting a blue badge holder. Two cancellations may be allowed. 	<ul style="list-style-type: none"> • If the motorist has previously had 2 Parking Notices/PCNs cancelled for the same contravention and has been warned to display a valid badge correctly in the future;
12. Where the motorist claims to have been unaware of the existence of a Controlled Parking Zone (CPZ):	
<ul style="list-style-type: none"> • If it can be established that the signing and marking of the CPZ is at fault. 	<ul style="list-style-type: none"> • In all other circumstances.

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13. Where the motorist was displaying an expired authorisation to park i.e. dispensation notice, parking place suspension permit, resident permit, business permit or visitor permit:	
<ul style="list-style-type: none"> • 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 to park e.g. sickness on the part of the applicant or a postal dispute/delays – supported by appropriate evidence; • In the case of permits, resident permits and business permits, if the authorisation had expired by less than 14 days. 	<ul style="list-style-type: none"> • In all other circumstances.
14. Where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings:	
<ul style="list-style-type: none"> • If it can be established that such conditions prevailed and it is likely that signs and markings were obscured as claimed and there was no alternative indication of the restriction. 	<ul style="list-style-type: none"> • If it can be established that such conditions did not cause lines and signs to be obscured as claimed; • If the Civil Enforcement Officer's notes and photographic evidence directly contradict the motorist's version of events; • If any reasonable alternative indication of the restriction was available to the motorist; • If the location of the contravention was unlikely to be subject to the natural conditions described by the motorist (i.e. it was under cover).
15. Where the motorist claims that their vehicle had broken down:	
<ul style="list-style-type: none"> • If the motorist is able to provide evidence of a breakdown i.e. proof of vehicle recovery or a bill of sale for repair or parts. 	<ul style="list-style-type: none"> • If the motorist is unable to provide evidence of any kind that the vehicle had broken down; • If the cause of the vehicle "breaking down" was due to negligence on the part of the motorist (e.g. had not been properly maintained; had run out of petrol or water); • If the Civil Enforcement Officer's notes contradict the motorist's version of events.

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16. Where the motorist claims that they were attending an emergency of another vehicle that had broken down:	
<ul style="list-style-type: none"> If the motorist is able to provide reasonable proof of the emergency i.e. a credible report of an accident, or that they were attending to another vehicle that had broken down. 	<ul style="list-style-type: none"> If the motorist is unable to provide evidence of any kind that they were attending an emergency or another vehicle which had broken down; If the Civil Enforcement Officer's notes contradict the motorist's version of events (i.e. motorist was not seen attending an emergency or another vehicle which was broken down).
17. Where the vehicle in question was on police, fire brigade or ambulance duties:	
<ul style="list-style-type: none"> If a senior officer of the service concerned supports the representations and there is no reason to doubt that the vehicle was engaged in operational activities. 	<ul style="list-style-type: none"> In all other circumstances.
18. Where the motorist claims to have been collecting or depositing monies at a bank:	
<ul style="list-style-type: none"> If specific arrangements have been agreed with the Council in advance. 	<ul style="list-style-type: none"> In all other circumstances.
19. Where the motorist claims to have been unaware of a temporary parking restriction or special event restriction:	
<ul style="list-style-type: none"> If the motorist claims that there was no indication of the restriction and the Enforcement Officer's notes / photographs do not confirm that appropriate signage was in place. If the process followed to make the temporary order was defective in some way. 	<ul style="list-style-type: none"> If the Civil Enforcement Officer's notes/photographs confirm that the vehicle was parked in an area restricted by the temporary order and that the appropriate signing was in place and clearly visible.
20. Where the registered keeper liable for payment of the PCN is said to have died:	
<ul style="list-style-type: none"> Where the circumstances can be confirmed by sensitive enquiry. 	<ul style="list-style-type: none"> Only if there is significant evidence to doubt the sincerity of the representation.
21. Where the motorist received a Fixed Penalty Notice from a police officer when parked in the same location:	
<ul style="list-style-type: none"> To prevent 'double jeopardy', if the police confirm that a fixed penalty notice has been issued or that criminal proceedings have been instituted in connection with the same parking/waiting incident. 	<ul style="list-style-type: none"> In all other circumstances.

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22. Where the motorist was unaware of the Overnight Waiting Ban/commercial vehicle waiting restriction:	
<ul style="list-style-type: none"> If motorist was instructed/authorised to park in contravention of the restriction by the police. 	<ul style="list-style-type: none"> In all other circumstances.
23. Where the motorist states they were in police custody when the PCN was issued:	
<ul style="list-style-type: none"> If proof (from the police) has been provided that the police had instructed the motorist to leave the vehicle before detaining him/her other than for offences involving driving under the influence of alcohol or drugs. If the time of arrest (proof required from the police) provides confirmation that the motorist was legally parked (proof of this required from the motorist) and was unable to move the vehicle before the restriction started. If the motorist can show that their vehicle was parked by a police officer (proof of this required from the police). 	<ul style="list-style-type: none"> If no proof provided. If information is provided by the police to suggest that the vehicle could have been correctly parked before the motorist was arrested. If information is provided that the motorist was detained as a result of driving under the influence of alcohol or drugs.
24. Where motorist claims they were parked on private property:	
<ul style="list-style-type: none"> If land search maps confirm the location is private property and not subject to the relevant Traffic Regulation Orders. If there is insufficient evidence to establish location of vehicle. 	<ul style="list-style-type: none"> In all other circumstances.
25. Where motorist was delayed in returning to their vehicle parked in a limited waiting parking space:	
<ul style="list-style-type: none"> If supported by appropriate evidence, the motorist's representations claim that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional. If the motorist had been rendered unable to drive since parking the vehicle. 	<ul style="list-style-type: none"> If the delay described by the motorist was entirely avoidable (e.g. queuing in a shop); If the motorist simply underestimated the time needed and could have reasonably purchased more time; If the motorist was unable to drive since parking due to excess alcohol or illegal substances in the body.
26. Where the motorist had parked while asking directions/opening gates to private property:	
<ul style="list-style-type: none"> If evidence is provided of neighbouring private property. 	<ul style="list-style-type: none"> In all other circumstances.
27. Where motorist stopped to answer mobile phone:	

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• In no circumstances.	• On all occasions.
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28. Where the motorist states that the details on the PCN are incorrect (e.g. location):	
<ul style="list-style-type: none"> If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the Civil Enforcement Officer and the motorist. 	<ul style="list-style-type: none"> If the Penalty Charge Notice was fully and correctly completed.
29. Where the motorist states that he/she was unaware of enforcement on Bank/Public Holidays:	
<ul style="list-style-type: none"> In no circumstances. 	<ul style="list-style-type: none"> On all occasions.
30. Where the motorist states that the restriction was marked after the vehicle had been parked:	
<ul style="list-style-type: none"> If the records confirm that signing/lining/placement of cones or suspension notices was likely to have taken place after the vehicle was parked. 	<ul style="list-style-type: none"> If there is evidence to show that markings were already in place at the time of parking.