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PROTOCOLS FOR APPEALS, REPRESENTATIONS AND RECOVERY IN RELATION TO PENALTY CHARGE NOTICES

INTRODUCTION

Herefordshire Council has prepared the following guidance in respect of Decriminalised Parking Enforcement. This document is intended to inform the public and provide guidance to council employees working in the enforcement of parking regulations.

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

These protocols provide a foundation upon which fairness and discretion can be applied. It has been recognised by the Traffic Penalty Tribunal and the Courts that there has to be flexibility in these matters and as a consequence, decisions made by the Council must not be restricted by being unduly formulaic.

Herefordshire Council recognises that each case will be considered on its own merits. Matters of proportionality, objectivity, fairness and reasonableness should be paramount. It is therefore important that anyone associated with Herefordshire Council as a Member, Officer, member of staff, contractor recognises that for the purposes of this policy they are deemed to be a member of the public.

The protocols are subject to ongoing review.

GENERAL INSTRUCTIONS FOR STAFF

1. The parking enforcement team will handle appeals and representations in accordance with these protocols. There are no income targets and neither are there targets for the number of accepted or rejected objections or representations. The only requirement is for staff to respond to appeals and representations in a timely manner and to do so courteously and with clarity.

Staff will also progress all unpaid Notices through the enforcement process in a timely manner.

They will deal with telephone queries in relation to the issuing of a Penalty Charge Notice (PCN) or a subsequent enforcement notice. Whilst full information will be provided to the customer with advice as to how to proceed, all appeals and representations have to be made in writing. Electronic communication is acceptable.

2. On receipt of an appeal the officer will firstly verify that the PCN is correct in that it accurately describes the details of the offence and all the required data is present. It must also have been properly served either by fixing it to the windscreen of the vehicle or handing it to the driver. If a PCN has not been issued correctly it will be cancelled.

They will then consider the appeal using the protocols detailed below for guidance. This must be done with an open mind and with no prejudgement. Any historic information about the appellant must be disregarded and the appeal decided only upon the facts of the individual case being considered.

3. If the appeal is deemed to be invalid the customer is to be advised in writing that their appeal has not been successful and, in as much detail as possible, the reasons why. If supporting evidence has been used to reach this decision then the customer is to be advised of this and copies supplied as appropriate. An additional period of 14 days from the date of the reply is to be given during which the motorist can pay the discounted amount.
4. If the appeal is deemed to be valid the customer is to be advised in writing that the PCN has been cancelled and the reasons why.
5. If a customer disagrees with the first decision in respect of their appeal, and writes a further letter of appeal, the case is to be reconsidered by a different officer provided that the motorist has either supplied new evidence or makes additional points or not all of the points that were raised initially by the motorist were addressed in the original reply.
6. If the motorist simply reiterates what they have written before then they are to be advised to wait to receive the Notice to Owner. They should be given a final additional period of 14 days from the date of the reply during which they can pay the discounted amount. They must, however, be advised that if a Notice to Owner is issued the amount due will have reverted to the full charge.
7. If the motorist appeals after being advised to wait for the Notice to Owner no further discount period is to be given and they are to be advised that the case

will progress to Notice to Owner stage and no further appeals will be considered.

8. When an appeal has been received within the initial discount period, the PCN sum is to be held at the discounted amount. If rejected, the customer is to be given a further 14 day period in which to pay the discounted amount. If an appeal is received outside of the initial discount period, and is rejected, it is at the discretion of the officer as to whether they offer payment at the discounted or full rate. Whenever a customer is allowed 14 days to pay the discounted amount, extra time may be allowed for payment if there is a bank holiday during this period.
9. If, when making their appeal, the customer includes payment then provided this is a cheque it is to be held pending consideration of the appeal. If the appeal is valid then the cheque is to be returned to the customer with the letter of explanation.

If, when an appeal is considered to be valid, the motorist has already paid the discounted amount it is to be refunded.

10. All letters will be replied to promptly and the target is that a reply will be sent within 10 working days of receipt. If the matter is complex and a full reply will not be possible in that period, then an acknowledgement letter is to be sent within 5 days of receipt.

If the volume of work is such that appeals will not be considered within 15 working days of receipt then an acknowledgement letter is to be sent within 2 days of receipt of the appeal.

11. All telephone conversations are to be recorded on the PCN record and the salient points noted.

APPEALS

GENERAL

Objections will be received against a PCN either for a general reason or one specific to the contravention. The exemptions that apply to each of the contravention codes are explained in Section 3 of the Parking Enforcement Protocols (downloadable above)

All objections will be considered based on the guidance contained in the following tables. Notwithstanding this, each case will be considered on its merits taking into account all of the evidence available and how exceptional the circumstances were at the time the Penalty Charge Notice was issued.

Where appropriate, documentary evidence should be sought from the motorist in order to support their appeal against the PCN. This is seen as good practice and should not be taken by the motorist to indicate that the information provided is being disputed.

A decision relating to objections in respect of PCN's issued due to badges*, permits or pay and display tickets either not on display or incorrectly displayed also has to take into consideration whether this is the first or a subsequent offence of this nature. If, within the 12 months prior to the recent contravention, a PCN was cancelled for failure to correctly display a badge*, permit or pay and display ticket then any subsequent PCN's will not be cancelled.

* For the avoidance of doubt, the word "badge", when used in relation to a disabled persons blue badge includes the clock.

TABLE GENA

Objection	Parking contravention did not take place.
Detail	Vehicle was not in the location described in the parking contravention.
Action	Provided the data on the PCN is correct then provide the motorist with photographic evidence and/or pocket book notes.

TABLE GENB

Objection	Was not aware restrictions applied at that location
Detail	<p>Signs and/or lines did not indicate the restriction for which the PCN was issued.</p> <p style="text-align: center;">OR</p> <p>Signing and/or lining was not that which lawfully allows the issue of a PCN.</p>
Action	<p>Check that the signs and/or lines required to enforce the parking regulations were in place at the time of the issue of the PCN. Photographic evidence taken at the time of issue should confirm the exact location.</p> <p>If there is uncertainty then the appropriate Traffic Regulation Order should be checked and advice sought from the Parking Manager. Additional photographs can also be requested of the signs/lines in the area if further clarification is needed.</p> <p>In the case of lines, it is not a legal requirement that they must be in perfect condition. The council cannot be expected to repaint them at regular intervals or on every occasion when repairs to the road have taken place. What is important is whether or not that state and quality of the lines make it clear to motorists that there are yellow lines there. Lines become worn and faded in varying degrees from time to time for various reasons, but they remain enforceable provided it is clear they are, and remain, yellow lines.</p>

TABLE GENC

Objection	A note was left in the vehicle
Detail	As supplied by the motorist
Action	<p>The Civil Enforcement Officers are instructed to ignore notes in vehicles and to issue a PCN if there is a breach of the parking regulations.</p> <p>The objection is to be dealt with based on the protocols relating to why the breach occurred.</p>

TABLE GEND

Objection	Vehicle had broken down
Detail	Due to vehicle breakdown it either could not be moved from the parking place or it had to be left where it was when it broke down.
Action	Ask for documentary evidence to support the stated reason for the breakdown. However, running out of petrol will not normally be taken as a vehicle breakdown as it is avoidable.

TABLE GENE

Objection	Passenger or driver was ill or some other emergency circumstances were involved which was beyond the control of the driver and prevented the vehicle from being moved.
Detail	As supplied by the motorist
Action	Check the Civil Enforcement Officer's pocket book entry to see if any evidence is held to support the details supplied by the motorist. If appropriate ask for documentary evidence to confirm the details provided.

TABLE GENF

Objection	Unmarked vehicle being used by the emergency services
Detail	Vehicle being used for an emergency service purpose
Action	This will generally relate to police vehicles and written confirmation should be sought from the driver's senior officer to confirm the details provided.

TABLE GENG

Objection	Vehicle was stolen
Detail	As supplied by motorist
Action	If the objection is that at the time the PCN was issued the vehicle had been reported stolen, then provided documentary evidence can be produced to confirm the information provided the PCN will be cancelled. It is expected that the evidence will include the police incident number.

TABLE OSA

Objection	Overstayed time permitted
Detail	As supplied by motorist
Action	In order for an objection to be upheld there must be mitigating circumstances which could not have been foreseen at the time the vehicle was parked. Where appropriate, documentary evidence as to the delay should be provided to support the objection to the PCN.

TABLE OSB

Objection	Loading/unloading was taking place
Detail	As supplied by the motorist
Action	<p>A decision will be made taking into account the evidence held by way of photographs and any entry made by the Civil Enforcement Officer in their pocket book.</p> <p>To qualify for loading/unloading the activity has to meet certain criteria:</p> <p>It must be continuous.</p> <p>The motorist should not stop the activity to have a cup of tea or a chat etc. However, this does not mean that activities such as completing paperwork or locating goods in the premises being visited are not part of the loading/unloading process.</p> <p>The goods involved must be heavy</p> <p>The goods being loaded/unloaded must be of such weight or bulk that they cannot reasonably be carried other than by means of a vehicle. The goods must be of a type that cannot be easily carried by one person in one trip. However, in some circumstances goods may be several items that are individually small or lightweight when delivered in the course of a trade or business. In these instances, delivery and collection will be considered in the same way as loading/unloading.</p> <p>Shopping may be classed as goods but a vehicle is not covered by a loading exemption if the goods concerned were not purchased prior to the waiting action. It is a breach of the regulations for a vehicle to wait whilst a purchase is made regardless of the type of goods involved. For the avoidance of all doubt, the process of shopping i.e. selecting and/or paying for the goods is not covered.</p> <p>The vehicle must be parked adjacent to where the activity is taking place.</p> <p>If the vehicle was parked in another street it would be difficult to argue that it was adjacent. The vehicle does not have to be a goods vehicle, save for when the bay being used is restricted to use by goods vehicles only, but it must be necessary for the activity and not being used merely for convenience.</p> <p>If the activity is being carried out where there are no adjacent parking bays e.g. in a pedestrianised area, then it is accepted that adjacent parking is not possible but it is expected that the vehicle will be parked adjacent to that area.</p> <p>The time parked must be reasonable</p> <p>As an example, loading or unloading large quantities of goods and taking all day to do it would not be considered reasonable.</p> <p>Timely</p> <p>The activity should be completed as quickly as possible.</p>

	<p>The Civil Enforcement Officers are instructed to observe vehicles parked on yellow lines for five minutes in order to establish whether any loading/unloading is taking place either from or to the vehicle. If no activity is seen as taking place within this time a Penalty Charge Notice will be issued.</p> <p>There are certain areas and times when loading/unloading is not permitted. In such cases signs and kerb markings will be in place to indicate this, details of such signs will be in the Highway Code.</p> <p>If there is still uncertainty as to how to proceed there are precedents set by the Traffic Penalty Tribunal. In a Parking Adjudicator's decision on 19 July 1997 (Jane Packer Flowers and Others) this issue was explored in detail and the adjudicator considered several cases before issuing a decision.</p> <p>The record of this ruling can be seen on the adjudication website at http://www.parkingandtrafficappeals.gov.uk/userdocuments/LOADADJ.pdf</p>
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TABLE OSC

Objection	Stopped to pick up or drop off a passenger
Detail	As supplied by the motorist
Action	To qualify for this exemption the driver must stay with the vehicle. If they have left the vehicle for whatever reason then they cannot claim an exemption.

TABLE OSD

Objection	Utility company vehicle
Detail	As supplied by the motorist
Action	<p>Vehicles relating to the usual providers of Gas, Water, Electricity and Telecommunications are exempt and these will be liveried. However, there are other organisations which have this status but their vehicles may not be recognised as a provider by the Civil Enforcement Officer.</p> <p>If a PCN is issued then full information as to the works being undertaken will be required to be supplied on company headed paper in order for a decision to be made.</p> <p>There are other criteria which have to be satisfied which are that the vehicle must be stopped within a reasonable proximity of visible works, which could reasonably be connected with the activity of the company owning the vehicle, and those works must be active.</p> <p>For clarification, case law qualifies the application of this exemption to work which is being undertaken within the highway. Work that is being undertaken within a building is not covered and the vehicle must park legally in such circumstances. A telecommunications provider working within a building to repair/install a phone connection is not covered by this exemption.</p>

TABLE OSE

Objection	Working on a property and needed access to the vehicle.
Detail	As supplied by the motorist.
Action	<p>This will apply, as an example, to those vehicles used by persons in the building trade or contractors to public utilities. These vehicles have no automatic exemption and have to comply with the parking regulations.</p> <p>An exemption may be granted if the driver seeks the permission of the Civil Enforcement Officer on the day they wish to park and if such permission is given, it applies only to that day. Such exemptions will not normally be allowed unless the vehicle has to be used in conjunction with the work being undertaken and the Civil Enforcement Officer will expect to see this activity taking place during the time parked.</p>

TABLE OSF

Objection	Entitled to park in a disabled bay
Detail	Disabled badge and/or clock not displayed or not properly displayed or not realised it had expired
Action	<p>If this is the first time a PCN has been issued to the vehicle and the motorist has supplied copies of both sides to confirm the validity of the badge then the PCN can be cancelled. The motorist must be warned that should a PCN be issued in the next 12 months for the same reason then it will not be cancelled.</p> <p>They must be reminded it is their responsibility to ensure the badge and clock are properly displayed in accordance with Section 11 Page 9 of "The Blue Badge Scheme" booklet or the later booklet "The Blue Badge scheme: rights and responsibilities in England" where the instructions as to how to display them are on page 9.</p> <p>If the Badge has expired less than one month before the PCN was issued then on receipt of copies of both sides of the renewed badge the PCN will be cancelled. If the Badge expired more than one month before the PCN was issued then the PCN will not be cancelled.</p> <p>If the reason for issue of the PCN was solely due to the badge having expired this is not treated as the one permitted infringement in a 12 month period.</p>

TABLE OSG

Objection	Entitled to park in a residents zone
Detail	Permit not displayed or not properly displayed or not realised it had expired
Action	<p>Vehicle permit - if the PCN has been issued to a vehicle against which a residents vehicle permit has been issued and the motorist has supplied details to confirm the permit is valid then if this is the first time a PCN has been issued to the vehicle then the PCN can be cancelled. The motorist must be warned that should a PCN be issued in the next 12 months for the same reason then it will not be cancelled.</p> <p>They must be reminded it is their responsibility to ensure the permit is properly displayed.</p> <p>If the permit has expired then the PCN must be upheld unless the permit is renewed to a date prior to the PCN being issued.</p> <p>Visitor permit - in order for the PCN to be cancelled the following must apply.</p> <ul style="list-style-type: none"> • The motorist must supply details to confirm the permit is valid and there must be photographic evidence taken by the CEO at the time the PCN was issued to link the permit partially on display in the vehicle against the one provided in evidence. • The motorist must have provided information in their objection letter saying why they were using the visitors permit. • It is the first time a PCN has been issued to the vehicle. <p>The motorist must be warned that should a PCN be issued in the next 12 months for the same reason then it will not be cancelled as it is their responsibility to ensure the permit is properly displayed.</p> <p>The PCN will not be cancelled if one of the following applies:</p> <ul style="list-style-type: none"> • It was not on display at the time the PCN was issued • There is no indication of why it was being used by the motorist in relation to the property it relates to. • It was being misused • It had expired • The vehicle had received a PCN in the last 12 months that had been cancelled due to a valid visitors permit being accepted <p>If the permit has expired then the PCN must be upheld unless the permit is renewed to a date prior to the PCN being issued.</p>

TABLE OSH

Objection	Parked in an on street bay not for that class of vehicle
Detail	As supplied by the motorist
Action	<p>There are three types of bay where parking is restricted to specific users.</p> <p>Disabled bays – these are solely for use by blue badge holders and no other vehicles are permitted to park in these bays. A PCN issued to a vehicle where the motorist is unable to provide a copy of a valid badge is to be upheld.</p> <p>Good vehicle only loading bays – in order to use these spaces a vehicle must be classified as a goods vehicle or permanently adapted for the carriage of goods. No other vehicles are permitted to use these bays, even for loading/unloading purposes and the PCN is to be upheld.</p> <p>For clarification; the Traffic Penalty Tribunal has ruled that neither the taxation class nor the insurance cover affect the definition of a goods vehicle. Section 58 of the Goods Vehicle (Licensing of Operators) Act 1995 defines a goods vehicle as a motor vehicle which has been constructed or adapted for the use of carriage of goods. Any adaptation has to be permanent by way of alteration to the original construction of the vehicle. An estate car with the seats folded down is not classed as a goods vehicle as this is not a permanent adaptation.</p> <p>Taxi Bays – Only licensed hackney carriages plying for hire are permitted to park in these bays and unless the motorist can provide evidence that their vehicle qualifies under this ground, the PCN will always be upheld.</p>

TABLE OSI

Objection	Parked in a Bus Stop
Detail	As supplied by the motorist
Action	Only buses are permitted to use bus stops and a PCN issued to any other vehicle is to be upheld.

TABLE OSJ

Objection	Parked on zig zag markings outside a school or on a pedestrian crossing and/or crossing area marked by zig zags
Detail	As supplied by the motorist
Action	No vehicles are permitted to wait in these areas and a PCN issued is to be upheld.

TABLE OSK

Objection	Re-parked in the same area within the restricted time period.
Detail	As supplied by the motorist
Action	<p>Many on street limited waiting bays have a time limit during which the motorist cannot return. The restriction applies to the area of the limited waiting, not the same space.</p> <p>It is unlikely that there will be any reason to cancel the PCN in relation to this contravention.</p>

TABLE CPA

Objection	Overstayed parking time purchased
Detail	As supplied by the motorist
Action	In order for an objection to be upheld there must be mitigating circumstances which could not have been foreseen at the time the vehicle was parked. Where appropriate, documentary evidence as to the delay should be provided to support the objection to the PCN.

TABLE CPB

Objection	Parked longer than the maximum permitted time in the car park
Detail	As supplied by the motorist
Action	If the parking time purchased was for the maximum permitted stay on the car park the PCN is to be upheld.

TABLE CPC

Objection	Parked in a car park bay not designated for that type of vehicle
Detail	As supplied by the motorist
Action	<p>If the vehicle is parked in a permit or reserved space bay and the motorist cannot produce a valid permit the PCN is to be upheld.</p> <p>*****</p> <p>If the vehicle is parked in an area that is not designated for that class of vehicle e.g. car parked in a coach bay then the PCN is to be upheld.</p> <p>*****</p> <p>If a vehicle is parked in a disabled bay and cannot produce a valid disabled persons badge the PCN is to be upheld.</p> <p>If this is the first time a PCN has been issued to the vehicle and the motorist has supplied copies of both sides of their disabled badge to confirm its' validity then the PCN can be cancelled. The motorist must be warned that should a PCN be issued in the next 12 months for the same reason then it will not be cancelled.</p> <p>They must be reminded it is their responsibility to ensure the badge and clock are properly displayed in accordance with Section 11 Page 9 of "The Blue Badge Scheme" booklet or the later booklet "The Blue Badge scheme: rights and responsibilities in England" where the instructions as to how to display the them are on page 9.</p> <p>If the Badge has expired less than one month before the PCN was issued then on receipt of copies of both sides of the renewed badge the PCN will be cancelled. If the Badge expired more than one month before the PCN was issued then the PCN will not be cancelled.</p> <p>If the reason for issue of the PCN was solely due to the badge having expired this is not treated as the one permitted infringement in a 12 month period.</p>

TABLE CPD

Objection	Couldn't or didn't park within a marked bay
Detail	As supplied by the motorist
Action	<p>All car parks that have marked parking bays require a motorist to park wholly within a bay. The reasons why they did not or could not do so are not relevant as if they are unable or unwilling to comply with the requirement then a PCN will be issued and there are no grounds for appeal.</p> <p>Having to park as they did due to the inappropriate parking of others is not a valid reason as if they are unable to comply with the requirement they should park where they can comply.</p>

TABLE CPE

Objection	No valid pay and display ticket seen – did not/could not purchase
Detail	As supplied by the motorist
Action	<p>All car parks are signed as pay and display and it is unlikely that an appeal will be allowed on the basis that the motorist was unaware they had to purchase a ticket.</p> <p>If the motorist claims that the pay and display machine was not working, the PCN will be cancelled provided that the machine had been reported as being faulty. However, the Civil Enforcement Officers take test tickets on entering a car park and if all machines are faulty PCN's will not be issued. If there is more than one pay & display machine in a car park then it is expected that a motorist will use another one to obtain a parking ticket.</p> <p>Motorists are expected to check that the pay and display ticket obtained from the machine shows the correct details as to time purchased. If they do not do so, then if it is incorrect as all the coins were not registered before the ticket was obtained, the PCN is unlikely to be cancelled.</p> <p>If the motorist claims they were in the process of obtaining change it is unlikely that an appeal will be allowed on the basis that if they intend to use a pay and display car park they know they will need change to purchase a ticket.</p>

TABLE CPF

Objection	No valid pay and display ticket seen/not properly on display
Detail	As supplied by the motorist
Action	<p>The pay & display ticket must be displayed in such a way that the Civil Enforcement Officer can read all the details to confirm its' validity.</p> <p>If this is the first time a PCN has been issued to the vehicle for not displaying a pay & display ticket and the motorist has supplied a legible copy of the ticket then the PCN can be cancelled.</p> <p>If the motorist supplies a copy of a season, reserved space disc, or sufficient evidence to check its' validity, and this is the first time a PCN has been issued to the vehicle for the same reason then the PCN can be cancelled.</p> <p>If they only provide information e.g. serial number rather than a copy of the badge then the person making the objection must be linked to the person/company who purchased the season disc. If there is no evidence, the motorist must be asked to supply documentary evidence from the disc purchaser that they were entitled to use it.</p> <p>If a PCN is cancelled due to a valid ticket or disc being provided, they must be reminded it is their responsibility to ensure it is correctly displayed in the future as should a PCN be issued in the next 12 months for the same reason then it will not be cancelled.</p>

TABLE CPG

Objection	Hold a concessionary parking badge
Detail	Concessionary badge not displayed or not properly displayed or not realised it had expired
Action	<p>If this is the first time a PCN has been issued to the vehicle and the motorist has supplied a copy to confirm its' validity then the PCN can be cancelled. The motorist must be warned that should a PCN be issued in the next 12 months for the same reason then it will not be cancelled.</p> <p>If the Badge has expired less than one month before the PCN was issued then on receipt of a copy of the renewed badge the PCN will be cancelled. If the Badge expired more than one month before the PCN was issued then the PCN will not be cancelled.</p> <p>If the reason for issue of the PCN was solely due to the badge having expired this is not treated as the one permitted infringement in a 12 month period.</p>

TABLE CPH

Objection	Hold a staff pass
Detail	Staff pass not displayed or not properly displayed.
Action	<p>The conditions of use of a staff parking pass are sent to staff each time they receive a pass be it the first one or a renewal. The onus is on them to ensure it is properly displayed and only used in the permitted car parks.</p> <p>If they park in a car park that is not on the list of permitted car parks relating to the type of pass they hold the PCN is unlikely to be cancelled.</p> <p>If the PCN was issued due to the disc not being properly displayed, if this is the first time a PCN has been issued to the vehicle and the motorist has supplied a copy to confirm its' validity then the PCN can be cancelled. The motorist must be warned that should a PCN be issued in the next 12 months for the same reason then it will not be cancelled.</p> <p>Staff receive no additional privileges and are subject to the same procedures as a member of the public who receives a PCN.</p>

INAPPROPRIATE CANCELLATION REASONS

Whilst the protocols are clear that objections will be considered based on the guidance contained in this document a fundamental requirement is to consider each appeal on its merits taking into account all of the evidence available.

However, the following reasons will require exceptional circumstances to have been in place at the time the Penalty Charge Notice was issued if cancellation is to be considered.

- I thought I was parked legally but made a genuine mistake
- There was nowhere else to park
- This is the first time I've got a parking ticket/I won't do it again/I'll be more careful next time
- I only stopped for a minute
- There was no need for a yellow line at that location
- I did not see the sign or lines
- I was parked outside my own house
- I went to get change for the pay and display machine and it took a long time
- I got lost and so could not return in time to my vehicle
- Other vehicles were also parked illegally and I did not see them get a ticket
- I was doing work at the property and there was nowhere else to park
- I had lent the car to a friend and they won't pay the penalty
- I was delayed in an important meeting

REPRESENTATIONS

1. General information

If the Penalty Charge Notice is not paid after the 14 day discount period has expired, the DVLA will be contacted to obtain the registered owner/keeper details at the date of the contravention.

If the Penalty Charge Notice remains unpaid after 28 days from the date of issue, and provided any additional discount period allowed has expired, a Notice to Owner will be issued to the person or company named by DVLA as the registered owner/keeper.

The Notice to Owner will be issued where:

- No payment has been received
- The payment made was insufficient to clear the Penalty Charge e.g. was paid after the expiry of the 14 day discount period

The Notice will be issued by first class post and will be taken to have been served on the second working day after the date of posting. The rules relating to service can be found in Regulation 3 of "The Civil Enforcement of Parking Contraventions (England) General Regulations 2007".

The Notice to Owner will provide full details of the offence, the amount payable and the options open to the recipient. These options are:

- **Pay the amount outstanding as shown on the Notice to Owner**
- or**
- **Make representations under one of the grounds listed on the Notice to Owner**

Only the registered owner/keeper may make formal representations and they must be made to Herefordshire Council within 28 days beginning with the date the Notice is served. The Council is not required to consider representations made after 28 days and if they are made, they must be accompanied with the reasons as to why they have been made outside of that period.

Representations should be made using the form provided as this ensures all the information needed is provided. However they can be made by letter or email but the ground(s) under which the representation is made **MUST** be stated. Supporting information should be supplied where appropriate e.g. proof of sale of vehicle.

Once a representation has been received, Herefordshire Council has to formally reply in writing within 56 days beginning with the date on which the representation was received. If further information is required in order to deal with the representation then the 56 days will start from the date that information was received. If we fail to do so then the Notice will be cancelled

and any sums already paid will be refunded. However, we aim to respond to all representations within 30 days.

If your representations are rejected, the registered owner/keeper will receive a Notice of Rejection and then has the right to appeal against that decision to an Independent Adjudicator. An appeal form is sent with the Notice of Rejection and explains what to do next.

There are no circumstances where an appeal can be made without a Notice of Rejection being issued relating to representations against the Notice to Owner.

The statutory grounds on which representations may be made are explained in more detail in the next section. However, there is also the opportunity to make representations that are not covered by the statutory grounds and Herefordshire Council will always consider these. However, full details of the reasons for the representation and why the Penalty Charge Notice should be reconsidered must be provided.

2. Statutory Grounds

2.1 The alleged contravention did not occur

You will need to provide as much evidence as possible to support your view that the PCN should not have been issued. If you are relying on a pay and display ticket, a permit or a disabled persons badge as evidence you must supply a legible copy with your representation.

If you tick the box but do not provide any evidence you will be asked to do so. If you do not, your representations are likely to be rejected.

2.2 I was never the owner of the vehicle in question

Whilst it is unlikely that any information can be provided to support this statement, if any is held it should be included with the representation. However, the Notice to Owner is sent to the registered keeper of the vehicle at the time of the contravention as supplied either by the DVLA, a hire company or a motor trader and documentary evidence of this will be held by the Council.

2.2.1 I had ceased to be its owner before the date on which the alleged contravention occurred.

You need 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. You also need to provide the name and address of the person/company to who the vehicle was sold.

2.2.2 I became its owner after the date on which the alleged contravention occurred.

You need to provide proof that the vehicle was purchased after the contravention i.e. a bill of sale, registration documents, insurance documents

or a letter from the DVLA. You also need to provide the name and address of the person/company from whom you purchased the vehicle.

2.3 The vehicle had been permitted to remain at rest in the place in question by a person who was in control of the vehicle without the consent of the owner.

If the vehicle had been stolen then you will need to provide a police crime report number and a copy of the document given to you by the police.

If the vehicle was being driven by a third party and not reported stolen then the registered keeper is always liable for the PCN and your representations will be rejected.

2.4 We are a vehicle 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.

You must supply a copy of the hiring agreement which must contain certain prescribed information.

If the vehicle is a courtesy car supplied to a customer then unless they have signed an agreement that contains the same prescribed details as required by a hiring agreement the registered keeper remains liable for the PCN.

2.5 The penalty charge exceeded the amount applicable in the circumstances of the case.

If you think you are being asked to pay more than is required by law you need to explain why. If you tick the box but do not provide any explanation you will be asked to do so. If you do not, your representations are likely to be rejected.

2.6 There has been a procedural impropriety by the enforcement authority.

A representation can only be made under these grounds if you believe that Herefordshire Council has failed to comply with any requirement imposed by the Traffic Management Act 2004, by the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 or by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

When making your representation you have to set out the statutory requirement, time limit or other procedural step with which you believe the Council has failed to comply.

If you tick the box but do not provide any information you will be asked to do so. If you do not, your representations are likely to be rejected.

2.7 The Order which is alleged to have been contravened is invalid.

You must explain why you believe the Order in question is invalid.

If you tick the box but do not provide this information you will be asked to do so. If you do not, your representations are likely to be rejected.

2.8 This Notice should not have been served because the penalty charge had already been paid:

i) in full: or

ii) at the discounted rate set in accordance with Schedule 9 to the Traffic Management Act 2004 and within the time specified in paragraph 1(h) of the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

You will need to advise the amount of the payment made, when and how it was made and include any supporting documentary evidence such as a receipt or bank statement. If you are unable to supply a bank statement you will need to provide the date the cheque cleared your account.

The discounted rate was 50% of the penalty charge and should have been paid not later than the last day of the period of 14 days beginning with the date on which the PCN was served i.e. the date of the contravention. If a challenge to the PCN was made and rejected then the 14 day discount period started from the date on the rejection letter.

If you believe you paid the discounted amount within 14 days of either the date of the offence or the date on the rejection letter then you will need to provide evidence to support this.

3. Other Grounds

Herefordshire Council, in accordance with a directive issued by the Local Government Ombudsman, will always give full consideration to all representations received, whether or not they fall within one of the eight "Statutory Grounds"

