

LBBD Enforcement Policy Annex 3

Parking Services Discretion Policy

**Guidance on how the Council can
exercise its discretion to cancel
Penalty Charge Notices**

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1: INTRODUCTION

If you are reading this you may have received a Penalty Charge Notice (a “PCN”) commonly referred to as a ‘ticket’, ‘parking ticket’ or ‘fine’.

The PCN may have been issued by a Civil Enforcement Officer (formerly known as a parking attendant), or by CCTV camera (fixed or mobile) for a parking or moving traffic contravention such as driving in a bus lane or making a banned turn.

Parking and traffic regulations are in place for good reasons, for example, to keep traffic moving, to improve road safety, and the environment and to address and balance the needs of different road users. We would prefer motorists to take account of the signs and regulations, and to drive and park properly. But those motorists who do not do this are liable to receive a PCN.

2: DISCRETION FOR NOTICE PROCESS STAFF

The Council has the discretion to cancel a PCN at any point in the appeals process and has set out the following policy with regards to the handling of appeals and to the exercise of that discretion;

- All representations will be considered and each case will be decided upon its own individual merits. Any extenuating or mitigating circumstances will be taken into account.
- The staff who issue PCNs will not handle representations which are made against PCNs.
- Representations will only be dealt with by staffs that are trained in the handling of such representations. Those staff shall be authorised to exercise the Councils discretion to cancel PCNs.
- Only authorised staff will be able to decide the outcome of challenges or representations. Any decision to exercise discretion to cancel a PCN outside of the statutory guidelines must have approval from the Parking Manager or Divisional Director only.
- It is acknowledged that complaints or concerns by other routes such as corporate complaints or Members casework can also be considered when deciding if a cancellation should be made. In all cases however the reasons for cancellation, in line with the Enforcement Policy will be recorded and reviewed, with the final outcome will be made by the Parking Manager or Divisional Director only.
- Every case will be looked into individually and supporting evidence may be requested before a decision on the outcome of an appeal can be made. Whilst every case will differ, it may be appropriate for the Council's discretionary power to cancel penalty charges maybe be used in the following circumstances;
 - a) Where the vehicle could not have been moved due to an accident or breakdown.
 - b) Where the vehicle had been stopped and left on the instructions of a police officer or of a Civil Enforcement Officer employed by the Council (whilst on duty).
 - c) Where the Council is satisfied that the driver of the vehicle was prevented from returning to it by circumstances which were beyond their control and which could not have been foreseen (such as due to accident or injury).
 - d) In cases where the PCN was issued in respect of the non-display of a pay and display ticket, if a ticket had in fact been purchased and it is subsequently produced, provided that it is confirmed that it would have

been valid for use on that vehicle, in that parking place at the time of the alleged contravention.

- e) In cases where the vehicle was being used by a disabled badge holder, but their blue badge had either not been displayed or had not been properly displayed, if the badge is later produced, provided that it is confirmed as being valid and, had it been properly displayed at the time of the alleged contravention, the PCN would not have been issued.
- f) Where an unmarked police vehicle can provide evidence they were on police business

As circumstances differ from case to case and as each case is considered on its own merits, we cannot limit or prescribe the factors that we take into account when considering exercising our discretion. Therefore this document cannot cover every situation that may arise or every situation in which we may exercise our discretion to cancel a PCN. However, set out above for illustrative purposes only are examples of certain situations in which we may or may not exercise our discretion to cancel a PCN.

Please note that this document will be subject to ongoing review and will be revised from time to time. Please check our website for updates www.Barking-Dagenham.gov.uk/Parking or call 020 8215 3000.

3: EXEMPT VEHICLES

Emergency services and other essential service delivery vehicles are exempt from the regulations in all circumstances, provided that they are observed being used for their proper purpose, and only parked in contravention for as long as is reasonably necessary:

- Vehicles being used for fire brigade, police or ambulance purposes.
- A vehicle being used in the service of a local authority in pursuit of its statutory powers or duties, providing that it is necessary for the vehicle to park there.

In all cases there should be evidence that the exempt activity is taking place and that the vehicle concerned is actively engaged in this activity.

If the CEO observes no exempt activity a Penalty Charge Notice will be served, and may be upheld unless acceptable evidence is provided to the Parking Appeals Service.

Most exempt vehicles are Livered, not private cars or vans, and the exemption does not automatically extend to contractor's vehicles unless specified.

Generally, Adjudicators have held that where a driver receives a PCN and is claiming an exemption from the restrictions, as listed above, the burden of proof rests with the driver and they should be able to produce evidence that supports this claim. If they can do so, the PCN will be cancelled. However, it is not always

possible for a driver to produce proof and each case will need to be considered on its own merits.

Taxis and private hire vehicles are permitted to board or alight passengers for as long as necessary for the purpose. There is not an automatic exemption for the driver to assist passengers into premises and leave the taxi or private hire vehicles unattended. If a licensed cab is left unattended a PCN may be served however, if mitigating circumstances are provided they will be treated on their own merits.

5: USEFUL CONTACTS

London Borough of Barking and Dagenham

Parking Services
PO Box 500

Tel: 020 8215 3005

Web: www.lbbd.gov.uk

Email: 3000direct@lbbd.gov.uk

The Traffic Enforcement Centre (TEC)

5th floor, St Katharine's House
21-27 St Katharine's Street
Northampton NN1 2LH

Tel: 08457 704 5007

Email: customerservice.tec@hmcourts-service.gsi.gov.uk

The Parking and Traffic Appeals Centre (PATAS)

Angel Square
Upper Ground Floor, Block 2
London EC1V 1NY

Tel: 020 7520 7200

Email: patas.team@patas.gov.uk

Fax: 01932 578493