

Parking Enforcement Protocol

London Borough of Southwark
Parking Services

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INTRODUCTION AND LEGISLATION

The London Borough of Southwark (LBS) covers a geographical area of over 11 square miles and has a current population of 320,000.

As the Highway Authority for the London Borough of Southwark, Southwark Council has a statutory responsibility to manage the traffic network to ensure the expeditious movement of traffic, (including pedestrians and cyclists) around the borough, as required under the Traffic Management Act 2004.

The Parking Service is responsible for managing the limited kerb space available in Southwark through the enforcement of parking restrictions and moving traffic contraventions. This is to enable the free flow of traffic on Southwark Council's highway network. Southwark Council has a Network Management duty across our highways and is managed in accordance with this enforcement protocol. Our Movement Plan takes a people centred approach and sets the direction for how we deliver movement in the borough. The plan is based around people, place and experience.

Operating a legally compliant and fair service.

Whilst parking enforcement was decriminalised by the national Government in 1994, Southwark Council along with other London boroughs were required to take over powers for decriminalised parking enforcement from the Metropolitan Police. Initially the powers used were granted under the Road Traffic Act 1991 as amended and then subsequently the Traffic Management Act 2004, from April 2008.

In addition, Southwark Council undertook powers to enforce decriminalised moving traffic contraventions, initially in bus lanes from 2002 and other contraventions such as banned turns, yellow boxes and no-entries, from 2006. The legislation used for this type of enforcement is the Road Traffic Act 1991 as amended by the London Local Authority and TfL Acts 1996 and 2003.

Having an effective parking and traffic enforcement service is an important component of delivering fairer future commitments within Southwark. In particular and in alignment with the Southwark Fairer Future programme; Theme 3 - A Greener Borough; Theme 4 - A Full Employment Borough and; Theme 5 – A Healthier Life, will all benefit from the delivery of this service. Traffic reduction is seen as a priority in terms of improving air quality; this is because of its impact on people's health and especially the health of children.

The Parking Service has responsibility for Southwark's parking policy, which covers suspensions, on-street enforcement, estate enforcement and customer service in dealing with parking and traffic contraventions and parking permits.

The key objectives of our Parking Services are to:

- maintain the safety of all pedestrians and road users;
- ease congestion and improve public transport, through the free flow of traffic;
- ensure the limited amount of parking space available for parking is there for those who need it, giving priority to residents and local businesses over commuters;
- provide parking for disabled people;
- promote the social and economic revitalisation of the borough's town centres and other centres by improving accessibility for all means of travel;
- support initiatives to improve air quality along with meeting environmental objectives; and
- ensure that parking rules are enforced firmly, but fairly.

The purpose of this document

The Parking enforcement protocols set out the parking enforcement and cancellation protocols in Southwark. It applies to on-street parking, housing estates, council operated car parks and traffic enforcement. It does not include privately operated car parks.

Specifically the purpose of this document is to:

- make clear the parking enforcement policy for each contravention, for the benefit of the public and the action of the Civil Enforcement Officers (CEOs) and guidance of parking staff;
- have a reference document, which can be easily updated when changes occur;
- set out the rules and procedures for issuing Penalty Charge Notice (PCNs) - what most people call 'parking tickets'; and
- inform the public of our criteria for consideration of mitigation in response to the issue of a PCN.

For further information regarding parking, please visit our website:

www.southwark.gov.uk/parking

It is important to note that the criteria set out in this document may be subject to change. While best efforts are made to ensure that the information in this document is up to date and accurate; drivers visiting Southwark should refer to the relevant parking and traffic signs and ensure that they are aware of the conditions that apply to any parking permit or dispensation issued. Any further enquires should be directed to our call centre on 0344 800 2736.

LEGISLATION

- Standard on / off street PCN and Notice to Owner (NtO) - including postal issue –
 - Traffic Management Act 2004
 - Civil Enforcement of Parking Contraventions (England) General Regulations 2007
 - Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 - including amendments.
 - Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations) 2022
- Bus Lane PCN and Enforcement Notice (EN) –
 - Road Traffic Regulations Act 1984
 - London Local Authorities Act 1996 – including amendments.
- Moving Traffic
 - London Local Authorities and Transport for London Act 2003 – includes prohibitions and banned turns and box junctions.
- The De-Regulation Act 2015
 - Restricted the use by Local Authorities on the issuing of postal Penalty Charge Notices.
 - An accompanying Statutory Instrument has instituted a compulsory 10 minute grace period in circumstances where generally a vehicle has been legitimately parked but then goes into contravention.
 - The Traffic Signs Regulations and General Directions 2016 – Prescribes the statutory signs and lines used by Local Authorities.

These documents set out what actions Local Authorities must or must not take. The regulations can be found at: www.legislation.gov.uk

CONTACTING THE COUNCIL

When contacting the council, a member of the public can do so via our appeals portal ([Online Parking Portal](#)), email (parking@southwark.gov.uk) or phone our call centre on 0344 800 2736.

- When making payment please follow the instructions on the PCN. Please return the payments slip if making payment by post.
- The rear of the PCN will indicate how to challenge the alleged contravention and how to make formal representations upon receipt of the Notice to Owner (NtO) or Enforcement Notice.
- You must ensure that the council receives payment within 14 days to qualify for the reduced charge.
- The PCN will contain details of the nature of the alleged contravention, the description, the location and the date and time.
- Check that the vehicle registration is correct.
- Please quote the PCN# (starts JK followed by 8 numbers or 7 numbers and the letter A) and vehicle registration on all correspondence.

PHOTOGRAPHS / CCTV IMAGES

CEOs take photographs for all on and off street PCNs issued, which are made available on the Council's website under the individual PCN reference number. CCTV cameras are used to record bus lane and moving traffic contraventions and other designated static contraventions still permitted under the Deregulation Act 2015 and Statutory Instruments for service of postal PCNs.

The Council has a written procedures for use when taking photographs associated with PCNs.

CONTROLLED PARKING ZONES (CPZ)

There are currently 32 CPZs in the London Borough of Southwark.

- At the point of entry to each CPZ, an entry sign is displayed, unless yellow line waiting restrictions are present throughout the zones which operate at all times. This is indicated by double yellow lines.
- This sign states the controlled hours of the zone that is being entered and the operating times of any single yellow lines.
- Exceptions exist if the zone abuts another controlled parking zone with the same times of operation or if the zone contains no single yellow lines.
- All of the resident bays will have specific time plates and those times can differ from the hours on the CPZ signs.
- All of the pay by phone bays and shared use bays will have specific time plates.
- Some single yellow lines may have longer operating hours; these will be individually signed.

NEW RESTRICTIONS

Where we introduce new restrictions, we will issue warning notices for 10 working days after the introduction of the new restrictions. We will not remove vehicles for 10 working days after the introduction of new restrictions.

RE-INSTATED RESTRICTIONS

Where previous restrictions are reinstated or if the restrictions have faded and have not been enforced for longer than six months, then the warning process for new restrictions above is adopted in these circumstances.

DIFFERENTIAL CHARGING

Differential charging was introduced on 1 July 2007 and this was on the basis that there should be a difference in the charging between more serious and less serious parking contraventions. This resulted in an increase in the penalty charge for some contraventions and a decrease in others and as a result the penalty charges are now separated into two levels as shown in the table below:

	Higher Charge - More Serious		Lower Charge - Less Serious	
	Discount rate Paid in 14 days	Full charge	Discount rate Paid in 14 days	Full charge
Band A Roads	£65	£130	£40	£80
Band B Roads	£55	£110	£30	£60
Moving Traffic	£65	£130		
Bus Lane	£65	£130		

PCNs issued for parking contraventions are separated by a system of bands determined by the Secretary of State. In the London Borough of Southwark:

- Band A are roads north of the A205 South Circular.
- Band B are roads south of the A205 South Circular.

EXEMPTIONS

The exemptions listed in this document do not apply if it appears to the CEO that the vehicle is not being used in accordance with the exemption. For example, an extended observation period will not be given to a commercial vehicle parked on a yellow line if it is evident that the driver / crew are not attending their vehicle.

CONTESTING PENALTY CHARGE NOTICES AND CANCELLATION PROTOCOL

Informal representations: (not including Moving Traffic CCTV contraventions)

Motorists may challenge the issue of a PCN if they believe an exemption applied or that mitigating circumstances need to be considered. The motorist has a period of 28 days from issue of the PCN to make an informal written representation.

If an informal representation is received within the period allowed for payment of the discounted charge (14 days from service of the PCN), motorists will be given the opportunity to pay the discounted charge (within 14 days from receipt of response) if the PCN cannot be cancelled. This ensures that motorists are not disadvantaged by querying the issue of the PCN.

Formal representations: (not including Moving Traffic CCTV contraventions)

The formal process of challenging a PCN issued under the Traffic Management Act 2004 commences on receipt of a Notice to Owner (NtO). This will be sent to the owner of the vehicle not less than 28 days after the PCN was served. Drivers may make written representations on the following statutory grounds, that the alleged contravention did not occur:

1. You were never the owner of the vehicle in question or you ceased to be the owner before the date on which the alleged contravention occurred or you became the owner after the date on which the alleged contravention occurred;
2. Where you ceased to be the owner before the alleged contravention or became the owner afterwards you must provide name and address details of the person you sold / bought the vehicle to / from if you have them. Please supply evidence of the disposal / acquisition e.g. sales receipt etc.
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 owners consent.
4. You are a vehicle hire firm and the vehicle in question was on hire under a hiring agreement at the time of the contravention and the person hiring the vehicle had signed a statement of liability acknowledging her / his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the period of the hire agreement;
5. You must include a statement of the name and address of the person to whom the vehicle was hired at the material time. Please also supply a copy of the hire agreement and the hirer's statement acknowledging her/his liability.
6. You are being asked to pay more than is legally required.
7. There has been a procedural impropriety on the part of the enforcement authority; "Procedural Impropriety" means a failure by the enforcement authority to observe

any requirement imposed on it by the Traffic Management Act 2004 or the relevant Regulations made under the Act in respect of the civil enforcement of parking contraventions in relation to the imposition or recovery of a penalty charge or other sum.

8. The order (except where it is an order made under Part IV of Schedule 9 of the Road TRA 1984) which is alleged to have been contravened, is invalid; Where you believe the parking restriction in question was invalid or illegal please indicate why you think this.
9. A civil enforcement officer was not prevented from serving the original penalty charge notice by affixing it to the vehicle or handing it to the owner or person in charge of the vehicle.
10. PCN has already been paid, provide details of payment method, date and amount.

Whilst the above are the ten approved statutory reasons allowed for making representations, the Council will also consider any others submitted.

Your reasons for stating that no contravention took place need to be documented with evidence providing dates, times and related proofs etc.

The owner of the vehicle is defined in law as the person in whose name the vehicle is registered at the Driver Vehicle and Licensing Agency (DVLA). The Council is required to reply to representations within 56 days. The Council will either accept or reject those representations. If the Council rejects the representations it will inform motorists using a formal Notice of Rejection of Representations and also advise they can appeal against its decision. If the council accepts the representations the PCN will be cancelled.

Formal representations: CCTV - Moving Traffic Contraventions and CCTV – Parking Contraventions

The formal process of challenging a PCN issued under the Traffic Management Act 2004 by CCTV commences on receipt of the postal PCN. This will be sent to the owner of the vehicle normally no more than 14 days after the contravention was observed. Drivers may make written representations on the following statutory grounds, that the alleged contravention did not occur.

1. I am not liable to pay the Penalty Charge because: I was not the owner of the vehicle at the time of the alleged contravention. Provide evidence of the transfer including the date, name and address of the keeper and evidence of payment (e.g. sales receipt).
2. The alleged contravention did not occur. There was no contravention of an order or failure to comply with an indication on a sign. Explain why you believe no contravention took place.

3. The vehicle being used without my consent. Supply proof such as police crime report number and police station address or insurance claim.
4. We are a hire firm and the person hiring the vehicle has signed a statement accepting liability. Please supply a copy of the signed hire agreement including the name and address of the hirer.
5. The Penalty Charge exceeded the amount applicable in the circumstances of the case. That is, you have been asked to pay more than you are legally liable to pay.
6. Other if none of the grounds shown above apply but you believe there are mitigating circumstances in your case.

Your reasons for stating that no contravention took place need to be documented with evidence providing dates, times and related proofs etc.

The Council is required to reply to representations within 56 days. The Council will either accept or reject those representations. If the Council rejects the representations it will inform motorists using a formal Notice of Rejection of Representations and also advise they can appeal against its decision. If the council accepts the representations the PCN will be cancelled.

Informal representations: CCTV - Bus Lane contraventions

Bus Lane contraventions in London follow the process as defined under the Road Traffic Act 1991 as amended by the London Local Authorities and TfL Act 1996. Initially a postal PCN is sent to the vehicle owner – who has sole liability. This provides the recipient the opportunity to pay the fine in a 14 day discount period or up to 28 days in which to make an informal written challenge.

Formal representations: CCTV - Bus Lane contraventions

Not less than 28 days after the issue of the postal PCN to the vehicle owner, an Enforcement Notice may be dispatched and it is in response to this document that formal representations against the issue of the PCN may be made in writing on the following statutory grounds:

1. You were not the vehicle owner at the date of the alleged contravention; please supply name and address of the seller / buyer and proof of sale / purchase.
2. The vehicle was taken without my consent; please supply proof e.g. police crime report, insurance claim etc.
3. There was no breach of the bus lane order; please give details as to you reason for believing this.
4. The police are already taking action; please provide the Fixed Penalty Notice (FPN) number and the date of issue (this applies if you received an FPN or Notice of

Intended Prosecution for the same contravention)

Your reasons need to be documented with evidence providing dates, times and related proofs etc.

The above four statutory reasons are the only ones that may be used to make formal representations and the Council is not obliged to consider any other grounds. The Council is required to reply to representations within 56 days. The Council will either accept or reject those representations. If the Council rejects the representations it will inform the motorists by issuing a formal Notice of Rejection of Representations and also advise they can appeal against its decision. If the council accepts the representations the PCN will be cancelled.

Please note that making a false declaration at any stage of the process leaves the person who did so liable for prosecution. A person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Challenges over the phone

The council will accept verbal informal representations or formal representations over the phone. The member of the public who requires this service will need to contact the parking call centre on 0344 800 2736. All calls are recorded, typically the first call handler will take a time and date when it is convenient for the challenge to be taken and a call back made.

Appeals

A motorist may appeal against the Council's decision if their representations were rejected. The Environment and Traffic adjudicators who sit at the London Tribunals hear appeals. Hearings may take place by post or in person. The Council will provide an evidence pack to the adjudicator and to the motorist. Either the appeal must be lodged within 28 days of receipt of the Notice of Rejection using the online service or the form provided with the Notice of Rejection, which will have the unique verification code needed by the Tribunal. This offers the motorist the only opportunity to have their case heard by someone who is independent of the Council. The appeal will be considered by an Adjudicator who is legally qualified (solicitor or barrister for example) and is independently appointed by the Lord Chancellor.

The adjudicator's decision is final and there are powers for costs to be awarded against either party if the adjudicator finds they have been "frivolous, vexatious or wholly unreasonable".

Charge Certificates

If the PCN remains unpaid after a period of 28 days has expired from the issue of the Notice to Owner, Enforcement Notice, Moving Traffic PCN, Notice of Rejection of Representation or Adjudicators decision the council will issue a Charge Certificate. The Charge Certificate will increase the amount outstanding by 50% and provides 14 days to respond to it.

There are very limited grounds to appeal against the issue of a Charge Certificate:

1. I did not receive the Notice to Owner / Enforcement Notice / Moving Traffic PCN.
2. I made representations and have not had a response.
3. I made an appeal to the Adjudicator and have not had a response.

If one of these circumstances does apply we will use our discretion and cancel the Charge Certificate (not the PCN) and put the motorist back to the position they would have been, had they received the previous documentation. The council will reissue the Notice to Owner / Enforcement Notice / Moving Traffic PCN or the Notice of Rejection of Representations or the Adjudicator's decision (as long as it was a postal hearing).

The Registration of Debt

If the penalty charge has not been paid after a period of 14 days after the Charge Certificate has been issued, the council may apply to the Traffic Enforcement Centre at Northampton County Court to recover the charge as if it were payable under a County Court Order. Once this has been registered, the council will send the registered keeper an Order for Recovery of the unpaid penalty charge and will enclose a Witness Statement form. Court costs, (£9) are added to the outstanding costs at this stage.

Witness Statement

Once the Order for Recovery has been received, the registered keeper will have 21 days to either pay the outstanding amount in full or send a Witness Statement to the Traffic Enforcement Centre detailing why the penalty charge should not be paid, and that the registration of the unpaid penalty charge should be revoked.

The Witness Statement can only be made on the following statutory grounds:

1. The Registered Keeper did not receive the NtO in question.
2. The Registered Keeper made formal representations to the council regarding the penalty charge but did not receive a Notice of Rejection.
3. The Registered Keeper appealed to the parking adjudicator against the council's decision to reject their representations but had no response to the appeal.
4. The penalty charge to which the order relates has been paid in full.

Warrant of Control

If the Registered Keeper does not pay the penalty charge after the Order for Recovery has been issued, or has failed to complete the Witness Statement after period of 21 days, the council may apply to the Traffic Enforcement Centre for authority to prepare a Warrant of

Control. This authorises the council to recover unpaid parking penalties using Enforcement Agents.

The role of elected representatives

Consideration of challenges / representations to parking and traffic enforcement is a function restricted to authorised Council staff and only they can make a decision about the cancellation or upholding and pursuit of a PCN. Elected representatives may ask for and be given information on behalf of a constituent on the progress of a representation or appeal but they should not play any part in deciding the outcome of individual cases as per the Department for Transport guidelines on this issue.

Discretion

The Council has the discretion to cancel any PCN where it believes that the circumstances warrant such an action. There will always be cases that do not meet any of the standard criteria for cancellation where there are unusual or unique mitigating circumstances that the Council may choose to cancel the PCN.

Under the general principles of Law, enforcement authorities have a duty to act fairly and proportionately and are encouraged to exercise discretion sensibly and reasonably and with due regard to the public interest. Making a fair decision on cases does not require that all cases are treated equally. It means that the individual circumstances of the case will be taken into consideration.

The Council's approach to exercising discretion is objective and without regard to any financial interest in the penalty or decisions that may have been taken at an earlier stage in proceedings.

Equally when a motorist or vehicle owner writes to the Council regarding the issue of a PCN they should include with their letter full details as to why they are contesting the issue of the notice and provide copies of any evidence to support their claim. If they do not provide this when initially making an informal challenge, we may contact them to ask for further evidence required to support their mitigation. The expectation is that the motorist can reasonably be expected to provide the evidence requested. If evidence is not received at informal stage, then at the formal representation stage, in response to the NtO, it could be considered if the evidence is received.

Appendixes associated with this document

- Appendix 1 – List of Contraventions - Jul 23
- Appendix 2 – CCTV exemption policy – Jul 23