

**MAY ACCEPT REPRESENTATIONS****MAY REJECT REPRESENTATIONS****STATUTORY GROUNDS TO MAKE REPRESENTATIONS****Important note:**

Although the following are the 6 Statutory Grounds to make representation, in accordance with a directive issued by the Local Government Ombudsman, full consideration will be given and account taken of all representations received, whether or not they are fall within the description of “**Statutory Grounds**”. It is for this reason that a 7th Ground, encompassing any other information the motorist or owner/keeper would like the Council to consider, has been included.

ENFORCEMENT POLICY GUIDELINES. All cases are considered on their respective merits, the following is the background guidance.

<b>MAY ACCEPT REPRESENTATIONS</b>	<b>MAY REJECT REPRESENTATIONS</b>
<b>S1 THE CONTRAVENTION DID NOT OCCUR:</b>	
<b>S1.1 where the motorist claims he/she was loading/unloading</b>	
<p>On a waiting prohibition or in a controlled bay: If evidence is available or provided to show:</p> <ol style="list-style-type: none"> <li>1. Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from 'legal' parking place.</li> <li>2. Loading/unloading activity was adjacent to the premises concerned.</li> <li>3. Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity)</li> </ol> <p>[Source – Traffic Orders, decided cases e.g. Jane Packer Flowers] If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services, etc.</p>	<p>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) If a valid pay &amp; display ticket was not purchased first</p>
<b>S1.2 where the motorist claims that a parking pay &amp; display machine was faulty</b>	
<p>If 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 not available to confirm that a machine was working at the time (test ticket) and there was not another ticket machine nearby which was operating correctly</p>	<p>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 visitors had been able to purchase tickets during the relevant period</p>
<b>S1.3 where motorist claims that the restriction is not clearly signed or marked</b>	
<p>If signs and/or markings are missing or Unclear. If signs and markings are inconsistent with each other and/or Traffic Order or legislation</p>	<p>If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.</p>
<b>S1.4 where motorist was carrying out building works</b>	
<p>If evidence confirms that the motorist was simply loading/unloading (see policy S1.1, above)</p>	<p>In all other circumstances</p>

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<p>If valid waiver to park at the location in question had been issued and was on display in the vehicle.</p> <p>If works are of a statutory nature or are exempted from restrictions by a Traffic Order or legislation</p> <p>If it can be proven that works were an emergency,</p>	
<b>S1.5 where motorist claims that PCN was not served (i.e. PCN not found attached to vehicle or handed to driver)</b>	
<p><i>If the Parking Attendant's pocket book and/or computer notes confirm that the vehicle drove away before a PCN could be served, i.e. PCN not handed to the driver or fixed to the vehicle.</i></p>	<p><i>If the parking attendant's notes or photographs confirm that a PCN was correctly served, i.e. handed to the motorist or fixed to their vehicle</i></p>
<b>S1.6 where the motorist claims that their vehicle was not parked in the location at the time and on the date alleged on the PCN which was issued</b>	
<p>Following consideration of all available evidence:</p> <p>If the motorist provides a copy of their vehicle excise license (tax disc), which was valid at the time of the contravention, and the serial number of which differs from the number noted by the parking attendant.</p>	<p>If the motorist does not provide a copy of their tax disc, after being given a further opportunity to submit such a copy</p> <p>Or - If the serial number on the copy tax disc provided by a motorist is identical to the serial number noted by the parking attendant.</p> <p>Or - If there is no evidence or if the evidence presented does not support the claim or is inconclusive</p>
<b>S1.7 where motorist claims that a valid authorisation to park, had been issued</b>	
<p>If records show that the motorist holds a valid authorisation to park.</p>	<p>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</p> <p>If the motorist did not park in accordance with the authorization</p>
<b>S1.8 where the motorist claims that a pay &amp; display ticket was purchased and displayed</b>	
<p>If the motorist produces a Pay &amp; Display parking ticket that was valid at the time the Penalty Charge Notice was issued <b>and the Parking Attendant confirms that a face-down ticket or a ticket that was displayed but concealed in some other way was seen</b> and it is the first contravention of this kind.</p>	<p>If the motorist is unable to produce a valid pay &amp; display ticket</p> <p><b>The Parking Attendant was unable to confirm that a face down ticket or a ticket that was displayed but concealed in some other way was seen</b></p> <p>The motorist has made a similar representation before and had a previous PCN cancelled, after giving them the benefit of the doubt; or</p> <p>The parking attendant noted that the motorist obtained their ticket from another motorist in the car park; or</p> <p>where digits have been entered on the face of the ticket and do not match those of the motorist's vehicle registration, subject to some latitude being allowed for errors.</p>

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<b>S2 THE PENALTY EXCEEDED THE RELEVANT AMOUNT</b>	
If the PCN and/or Notice to Owner showed the incorrect amount of penalty charge, i.e. the wrong penalty charge band	If the PCN or Notice to Owner showed the correct amount of penalty charge
<b>S3 THE TRAFFIC ORDER WAS INVALID</b>	
If the Traffic Regulation Order which prescribes the restrictions that the vehicle was parked in contravention of was either not constructed correctly, i.e. is ultra vires, or was not made correctly, i.e. not consulted on properly	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
<b>S4 THE MOTORIST WAS NOT THE OWNER/KEEPER OF THE VEHICLE AT THE TIME OF THE CONTRAVENTION:</b>	
<b>S4.1 where the current registered keeper claims that the vehicle was disposed of before the contravention occurred</b>	
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 disposed of the vehicle. ACTION - send a new Notice to Owner to the person named by the current registered keeper	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 disposed of 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, cannot be traced or is for some other reason not considered to be bona fide
<b>S4.2 where the current registered keeper claims that the vehicle was purchased after the contravention occurred</b>	
If the current registered keeper is able to provide proof that the vehicle was purchased after the contravention, i.e. an invoice, 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 from whom they purchased the vehicle	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, cannot be traced or is for some other reason not considered to be bona fide
<b>S4.3 where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention</b>	
Only when a hire agreement exists (see policy S6, below)	In all other circumstances because the registered keeper is always liable, including where the vehicle was left in the care of a garage
<b>S4.4 where the motorist claims that they never owned the vehicle</b>	
If the DVLA confirm that the motorist was not the registered keeper at the time of the	If the DVLA confirms that the motorist was the registered keeper of the vehicle at the

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<p>contravention</p>	<p>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 take responsibility for PCNs incurred, subject to the time of hire (see policy S6, below)</p>
<b>S5 THE VEHICLE HAD BEEN TAKEN WITHOUT OWNER'S CONSENT</b>	
<b>S5.1 where the current registered keeper claims that the vehicle had been stolen</b>	
<p>If the registered keeper provides a valid police crime report reference number.</p>	<p>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 theft alleged</p>
<b>S5.2 where the current registered keeper claims that the vehicle was driven by a third party (i.e. a friend, relative or estranged partner)</b>	
<p>In no circumstance</p>	<p>In all circumstances because the registered keeper is always liable, save for when a hire agreement exists (see policy S6, below)</p>
<b>S6 THE OWNER IS A HIRE COMPANY AND HAVE SUPPLIED THE NAME OF THE HIRER</b>	
<p>If the hire company are able to provide proof that the vehicle was hired at the time of the contravention, i.e. a signed agreement          If the hire company are able to provide the full name and address of the person to whom they hired the vehicle          ACTION - send a new Notice to Owner to the person named by the hire company</p>	<p>If the hire company are unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom they hired the vehicle          If the person named by the hire company as the person to whom they hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention          If the vehicle was being used as a courtesy car without an agreement signed to accept responsibility for Penalty Charge Notices issued.</p>
<b>S7 Any other information that the motorist / vehicle owner want the Council to take into consideration</b>	
<p>The decision whether or not a Penalty Charge Notice should be cancelled, will only be taken following very careful consideration, taking into account all of the evidence available.</p>	

<b>MITIGATING CIRCUMSTANCES</b>	
<b>MC1 where the motorist claims to have become unwell while driving</b>	
<p>If the motorist provides proof of a medical condition, temporary or permanent, that is consistent with the conditions described. When the notes made by the Parking Attendant support the motorist's representations.</p>	<p>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</p>
<b>MC2 where the motorist claims to be a doctor, nurse, health visitor attending a patient</b>	
<p>If the motorist concerned possesses a Medical Dispensation badge (BMA, HEBS) that the Council concerned recognises and approves and/or is exempt under the relevant Order. Or If the motorist produces evidence that they were responding to an urgent medical call and there was no nearby legal parking place</p>	<p>If motorist was not attending a patient in urgent circumstances or if there were legal parking spaces nearby. If 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 patients property, say, in a car park</p>
<b>MC3 where the motorist stopped to use the toilet</b>	
<p>On production of medical evidence confirming a relevant medical condition and in support of the circumstances described in a representation.</p>	<p>In all other circumstances</p>
<b>MC4 where the motorist stopped to collect (prescribed) medication from a chemist</b>	
<p>Only in the most grave, urgent and exceptional of circumstances and the use of a 'legal' parking place would have caused an unacceptable delay.</p>	<p>In any lesser circumstances</p>
<b>MC5 where the motorist was a patient visiting a doctor's surgery</b>	
<p>If the motorist can provide a letter from a doctor to confirm that the visit was very urgent and that they were unable to walk from the nearest legal parking space.</p>	<p>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 parked legally elsewhere.</p>
<b>MC6 where the motorist claims to have been recently bereaved</b>	
<p>If no evidence exists to the contrary, taking into account the sensitivity of this issue on first occasion.</p>	<p>Only if there is a significant reason to doubt the sincerity of representations, i.e. the parking attendant's notes indicating that the motorist was going about a normal day, say, shopping or working, or the bereavement considered to be a long time ago</p>
<b>MC7 where the motorist was delayed in returning to their vehicle and parking time</b>	

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<b>purchased had expired</b>	
If supported by appropriate evidence, the motorist's representations claims that the delay in returning to the vehicle was caused by circumstances that were entirely unforeseen, unavoidable and exceptional. If motorist's vehicle had broken down, subject to concurrence with policy MC25, below) If the motorist was unable to drive, since parking the vehicle.	If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop. If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or commuting. If the motorist was unable to drive since parking due to excess alcohol in the body or had been detained and charged by the police.
<b>MC8 where the motorist "fed" a meter or pay &amp; display machine by buying subsequent time to park in the same place or returned to the same place within a specified and prohibited time period</b>	
In no circumstances	If the motorist overstays initial period of time purchased or returns within a period of 'No return'
<b>MC9 where the motorist left the vehicle parked without a valid ticket on display to obtain change.</b>	
If the motorist had not left the car park, or onstreet pay and display area, while obtaining change and a ticket was purchased.	If the parking attendant's notes indicate that the motorist returned to their vehicle, having completed their purpose for parking, while the PCN was being issued, i.e. carrying shopping, or had left vehicle in car park, or on-street pay and display area, while obtaining change
<b>MC10 where the motorist claims to have been unaware of charges or restriction in the car park relating to vehicle's class or weight.</b>	
If reference to restrictions on tariff board(s) are incorrect or missing.	In all other circumstances
<b>MC11 where the motorist claims to have been unaware of recent rise in tariff</b>	
If statutory notices were not erected in accordance with procedural regulations. If revised tariff is not on tariff board(s)	If statutory notices were erected in accordance with procedural regulations and tariff board(s) were correct
<b>MC12 where the motorist had parked with one or more wheels outside of a marked bay in a car park</b>	
Only in the most exceptional of circumstances that were outside the motorists control and are supported by incontrovertible evidence. Otherwise - In no circumstances	When clear and incontrovertible supporting evidence (photographs/Sketch plan) is available
<b>MC13 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 could not be read or had expired</b>	
If it can be established that this is the motorist's first contravention of this type and they can provide evidence that they are, or were transporting, a Blue badge holder.	If the motorist has previously had a PCN cancelled for the same contravention and has been warned to display a valid badge /time clock, correctly in the future.

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	If the motorist was parked on a waiting restriction beyond the 3 hour time limit permitted by the Blue Badge Scheme, or on another restriction for which the Blue Badge does not provide an exemption.
<b>MC14 where the motorist claims to have been unaware of the existence of a controlled parking zone</b>	
If it can be established that the signing and marking of the CPZ is at fault, see policy S1.3, above	In all other circumstances
<b>MC15 where the motorist was displaying an expired authorisation to park, i.e. waiver, parking place suspension, season ticket, residents permit, business permit or visitors permit</b>	
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 season tickets and resident's / business parking permits only, if the authorisation had expired by less than 14 days	In all other circumstances In the event of more than one vehicle registration included on season ticket or permit, subsequent production of the season ticket will not necessarily cause automatic cancellation of the PCN as the season ticket may have been used on the other vehicle
<b>MC16 where the motorist is parked in contravention of a waiting/parking prohibition whilst displaying a resident's visitor permit.</b>	
In no circumstances	On all occasions
<b>MC17 where the motorist is a new resident within a controlled parking zone and had parked in a residents bay without displaying a valid residents permit</b>	
In exceptional circumstances	On nearly all occasions
<b>MC18 where the motorist had parked incorrectly in a controlled bay on-street</b>	
If it can be established that the motorist was genuinely loading or unloading, subject to compliance with policy S1.1, above.	On all occasions
<b>MC19 where the motorist assumed that they were entitled to "a period of grace" before the PCN was issued</b>	
In no circumstances.	In all circumstances
<b>MC20 where the motorist claims they were attending a funeral</b>	
If no evidence exists to the contrary, taking into account the sensitivity of this issue.	Only if there is a significant reason to doubt the sincerity of the representations.
<b>MC21 where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings</b>	
If it can be established that such conditions	If it can be established that such conditions

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<p>prevailed and it is likely that signs and markings were obscured as claimed and there was no alternative indication of the restriction.</p>	<p>did not cause lines and signs to be obscured as claimed.          If the parking attendant's notes photographic evidence etc. 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</p>
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**MC22 where the motorist claims that their vehicle had broken down**

<p>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.</p>	<p>If the motorist is unable to provide evidence of any kind that their vehicle had broken down          If the cause of the vehicle "breaking down" was due to negligence on the part of the motorist, i.e. the vehicle had not been properly maintained, had run out of petrol or water or a similar reason          If the parking attendant's notes contradict the motorist's version of events.</p>
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**MC23 where the motorist claims that they were attending an emergency or another vehicle that had broken down**

<p>If the motorist is able to provide reasonable proof of the emergency, i.e. a credible report of an accident or incident, or that they were attending to another vehicle that had broken down.</p>	<p>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 parking attendant's notes contradict the motorist's version of events, i.e. the motorist was not seen attending an emergency or another vehicle which was broken down</p>
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**MC24 where the motorist claims to have put money into the wrong ticket machine**

<p>If it is agreed that the position of the ticket machine used by the motorist is likely to cause confusion</p>	<p>If the ticket machine used by the motorist is positioned in such a place that confusion is not likely.          If the motorist has had representations accepted for a similar contravention previously.</p>
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**MC25 where the vehicle in question was on police, fire brigade or ambulance duties**

<p>If a senior officer of the service concerned, supports the representations and there is no reason to doubt that the vehicle was engaged on operational activities.</p>	<p>In all other circumstances</p>
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**MC26 where the motorist claims to have been collecting or depositing monies at a bank**

<p>If the procedure explained in the motorist's representations is consistent with the allowance for loading and unloading, see Policy S1.1, above or          If specific arrangements have been agreed</p>	<p>In all other circumstances</p>
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<b>MC27 where the motorist claims to have been unaware of a temporary parking restriction or special event restriction</b>	
<p>If the motorist claims that there was no indication of the restriction, and the parking attendant's notes/photographs do not confirm that appropriate signing was in place. If the process followed to make the temporary order was defective in some way.</p>	<p>If the parking attendant's notes/photographs confirm that the vehicle was parked in an area restricted by the Temporary Order or Notice, and that appropriate signing was in place and clearly visible.</p>
<b>MC28 where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time, e.g. is living abroad or is in prison</b>	
<p>In no circumstances</p>	<p>On all occasions</p>
<b>MC29 where the registered keeper liable for payment of the PCN is said to have died</b>	
<p>Where the circumstances can be confirmed (by sensitive enquiry).</p>	<p>Only if there is a significant evidence to doubt the sincerity of the representations.</p>
<b>MC30 where the vehicle driven by the motorist is diplomatically registered</b>	
<p>In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle. KCC should be informed of all penalty charges unrecovered from keepers of diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and Commonwealth Office [Source – Secretary of State's Traffic Management and Parking Guidance, Vienna Convention on Diplomatic Relations, Diplomatic Privileges Act 1964 and Government Report on Review of Vienna Convention...]</p>	<p>In no circumstances</p>
<b>MC31 where the motorist received a Fixed Penalty Notice (FPN) from a police officer or traffic warden when parked in the same location</b>	
<p>To prevent 'double jeopardy', if confirmation provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted.</p>	<p>In all other circumstances</p>
<b>MC32 where a Council officer or Member parked in contravention and claims to have been on Council business</b>	
<p>If the officer was carrying out emergency or other statutory work.</p>	<p>If it can be established that the officer/Member could have reasonably parked elsewhere.</p>
<b>MC33 where the motorist stopped to drop off someone</b>	
<p>If the circumstances are seen by the parking attendant. If, in exceptional circumstances and subject to observations times, the motorist had to</p>	<p>If motorist was parked/stopped on school keep clear markings, pedestrian crossing, bus stop clearway</p>

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escort a passenger (child, elderly or disabled person) to home, or school.	
<b>MC34 where motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction</b>	
If motorist was instructed / authorised to park in contravention of the restriction by the police.	In all other circumstances
<b>MC35 where motorist states they were in police custody when PCN issued</b>	
If proof (from the Police) has been provided that the police had instructed the motorist to leave the vehicle. If the time of arrest (proof required from the Police) provides confirmation that motorist was legally parked and was unable to move vehicle before the restriction started	If no proof provided If vehicle could have been legally parked before arrest
<b>MC36 where motorist states they were visiting a friend or relative in urgent circumstances</b>	
If due to an emergency the parking contravention could not be avoided due to the exceptional nature of the incident.	If motorist has already received a PCN, which has been cancelled for the same reason If the Parking Attendant's Pocket Book notes provides significant reason to doubt sincerity of representation
<b>MC37 where motorist claims there was no legal place to park</b>	
Only in the most exceptional of circumstances	In the absence of exceptional circumstances
<b>MC38 where motorist claims they were parked on private property</b>	
If land search maps confirm location is private property & not subject of the relevant Traffic Regulation Order. If there is insufficient evidence to establish location of vehicle	In all other circumstances
<b>MC39 where motorist was delayed in returning to their vehicle parked in a limited waiting parking place</b>	
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 motorist's vehicle had broken down, (subject to concurrence with policy MC25, above). If the motorist was unable to drive, since parking the vehicle.	If the delay described by the motorist was not exceptional, i.e. 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 in the body or had been were detained by the police for any reason, unless subsequently released without charge or proven innocent
<b>MC40 where motorist had parked while asking directions / opening gates to private property</b>	

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If evidence provided by the Parking Attendant does not contradict representations	In all other circumstances
<b>MC41 where motorist stopped to answer mobile phone</b>	
In no circumstances	On all occasions
<b>MC42 where motorist states that the details on the PCN are incorrect, e.g. location</b>	
If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the parking attendant	If the Penalty Charge Notice was fully and correctly completed.
<b>MC43 where motorist states they were unaware of enforcement on Bank/Public holidays</b>	
In no circumstances	On all occasions
<b>MC44 where motorist states that restriction was marked after the vehicle had been parked</b>	
If records confirm that signing/lining/ placement of cones or suspension notices was likely to have taken place after the vehicle parked.	If there is evidence to show that markings were already in place at the time of parking.