

## PARKING APPEALS POLICY

### **BACKGROUND**

Parking regulations are introduced by the Council to ensure that limited parking space is allocated fairly. Non-compliance with these regulations impacts on other users and is not acceptable.

The Department for Transport provides clear advice on the procedures for dealing with representations from motorists about parking fines. It requires Local Authorities to authorise certain personnel to deal with representations. These authorised personnel should be familiar with all aspects of Parking Enforcement, so that they can judge whether or not a representation falls within the statutory grounds under the Transport Management Act 2004 (TMA) or within the Councils own guidelines.

Given the semi-judicial nature of the representations process the DfT requires that Local Authority Members should play no part in deciding individual representations. Similarly, non-authorised personnel should also take no part in deciding individual representations. Where representations are made about receiving an excess charge notice, or where councillors and senior staff members make representations on behalf of individuals, the following guidelines will be followed.

### **PROCEDURE**

All representations made either directly or on behalf of an individual must be made in writing.

When it is considered that there are grounds for cancelling an excess charge notice the representation must be passed to an authorised officer to decide.

The representation will be considered against the following guidelines and to ensure accountability, exceptions to the guidelines will not normally be made however it must be pointed out that each case is considered on its own merits. There is a free adjudication service carried out by the independent Council Adjudications Officer available to motorists who object to the decisions made during the informal and formal representations process, and in all cases where representations are rejected, motorists will be advised of the adjudication process.

The results of the decisions made by the adjudicators will be monitored and the Councils guidelines reviewed as a result. Council staff may not be given special consideration and must be treated in same manner as other members of the public.

## **GUIDELINES**

### **Grounds where the Excess Charge Notice may be challenged.**

The 9 reasons where an Excess Charge Notice may be challenged are given below. They are;

1. The alleged contravention did not occur.
2. I was not the owner of the vehicle at the time of the alleged offence.
3. The Enforcement Officer was prevented from serving the Excess Charge Notice.
4. The vehicle was parked by a person who was in control of it without my consent.
5. We are a hire firm and the person hiring the vehicle has signed statement accepting liability, and we have provided a full and current name and address for the hirer.
6. The excess charge exceeds the amount applicable.
7. There has been a procedural impropriety on the part of the Council.
8. The Parking Order which is alleged to have been contravened is invalid.
9. The Excess Charge Notice was paid either in full or at the discounted rate within the discount period.

### **Additional reasons where the Excess Charge Notice may be cancelled are;**

10. The vehicle was broken down. An independent receipt or report for work carried out should support this.
11. Production of a valid pay and display ticket / permit for the relevant offence.
12. Production of a valid blue badge for the relevant offence.
13. There are compelling mitigating or compassionate grounds depending on the circumstances and supporting evidence supplied.

Where representations are made on any one of the above grounds, and are substantiated to the satisfaction of the authorised officer, the Excess Charge Notice shall be cancelled.

### **Grounds where the Excess Charge will not be cancelled.**

An Excess Charge will not normally be cancelled on the following grounds;

1. A driver parked illegally because a space was unavailable.
2. Parked in a Pay and Display bay whilst getting change to pay the charge.
3. Motorist was a Council employee on Council business.
4. Age, poverty, and disability unless excused on compassionate grounds.

5. Where an Excess Charge has previously been cancelled in similar circumstances.

Notes;

Staff authorised to cancel ECNs must be recognised by the standing orders and are Steve Martin, Kevin Hirons, John Godwin and Mike Bell.

The role of the adjudicator

They can refer cases back to the senior officer dealing in parking.

They may make such directions to the authority as he or she considers appropriate and the authority must comply without delay.

Their decision is final.

Can only allow an appeal if one of the statutory grounds for appeal (IE grounds identified as 1 – 9) applies.