

# Traffic Penalty Tribunal Circular

14/08/08

## Council Evidence

### Penalty Charge Notices and other Formal Documents

The Council has always been obliged to prove the case against an Appellant. Under the Traffic Management Act 2004, and its associated Regulations, the Council has to show not only that the alleged contravention occurred and that the Appellant is liable to pay the penalty, but also that no procedural impropriety has occurred.

The Adjudicators are likely to take the view that part of this obligation will include showing that the various formal documents<sup>1</sup> issued by the Council throughout the enforcement process accurately reflect the requirements of the legislation.

#### Entire PCN

For example, some councils send in only the front side of a PCN, and do not include the reverse. In view of the amount of information required to appear for example on a Regulation 9 PCN<sup>2</sup> it is unlikely that all of it will fit on one side, so the reverse side is a pertinent piece of evidence. Its absence is likely to cause a council to fail to prove its case.

A copy of the PCN is one of the documents that the legislation says must be produced by a council in every appeal. Unlike Traffic Regulation Orders, it is not appropriate for a council to lodge a specimen PCN with the Tribunal and rely upon it as evidence in any particular case. Unlike a TRO, the PCN is a new document on each occasion and its appearance is dependent on stationery supplies, reprinting and other such variables and so its contents must be proved in each case.

Accordingly, so that both the Appellant and the Adjudicator may ascertain if a PCN (or any other formal document) is compliant Councils should ensure that a true copy of the entire document is submitted as part of their evidence. In particular, this means that both the front and the back of the PCN must be submitted.

#### Reproduced Documents

Many councils do not have the facility to submit a direct copy of the PCN as one is not produced on the street and the original is no longer in the possession of the council. An alternative has been to submit a reproduction, comprising a template document populated with data from the council database. The template contains the printing that would have been on the original, as well as the data, to create a reproduction of the original.

Such reproduced, or "computer-generated", PCNs should be certified as accurate by an authorised officer of the council after checking that the contents of the reproduction show no more and no less information than that on the original PCN. The layout or appearance is of less importance, but the information must be identical.

A document that contains only the data, and not the surrounding information that the original would display, is unlikely to be acceptable. However, a specimen of the printed version together with the data, might suffice.

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<sup>1</sup> Penalty Charge Notice, Notice to Owner, Notice of Rejection etc.

<sup>2</sup> See Appendix

Other documents, such as the Notice to Owner, are also often reproduced. Again, they must be true and accurate representations of the original. A reproduction should be certified by an authorised officer.

Councils should also appreciate that the Adjudicators will not necessarily accept a reproduced PCN (or other document) as a true and accurate copy, and that its accuracy may be rebutted by an Appellant, often by producing the original.

## **Appendix**

### **The Civil Enforcement of Parking Contraventions (England) General Regulations 2007**

#### **Contents of a penalty charge notice served under regulation 9**

1. A penalty charge notice served under regulation 9 must, in addition to the matters required to be included in it by regulation 3(2) of the Representations and Appeals Regulations, state—

- (a) the date on which the notice is served;
- (b) the name of the enforcement authority;
- (c) the registration mark of the vehicle involved in the alleged contravention;
- (d) the date and the time at which the alleged contravention occurred;
- (e) the grounds on which the civil enforcement officer serving the notice believes that a penalty charge is payable;
- (f) the amount of the penalty charge;
- (g) that the penalty charge must be paid not later than the last day of the period of 28 days beginning with the date on which the penalty charge notice was served;
- (h) that if the penalty charge is paid not later than the last day of the period of 14 days beginning with the date on which the notice is served, the penalty charge will be reduced by the amount of any applicable discount;
- (i) the manner in which the penalty charge must be paid; and
- (j) that if the penalty charge is not paid before the end of the period of 28 days referred to in subparagraph (g), a notice to owner may be served by the enforcement authority on the owner of the vehicle.

### **The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007**

(2) A penalty charge notice served under regulation 9 of the General Regulations must, in addition to the matters required to be included in it under paragraph 1 of the Schedule to the General Regulations, include the following information—

(a) that a person on whom a notice to owner is served will be entitled to make representations to the enforcement authority against the penalty charge and may appeal to an adjudicator if those representations are rejected; and

(b) that, if representations against the penalty charge are received at such address as may be specified for the purpose before a notice to owner is served—

- (i) those representations will be considered;

- (ii) but that, if a notice to owner is served notwithstanding those representations, representations against the penalty charge must be made in the form and manner and at the time specified in the notice to owner.