

**PATROL JOINT COMMITTEE 7TH OCTOBER 2008
REPORT TO ACCOMPANY AGENDA ITEM 7**

**INDEPENDENT COMMITTEE ON THE REVIEW OF PARKING
DOCUMENTATION AND NOTICES IN RELATION TO THE
TRAFFIC MANAGEMENT ACT 2004**

**REPORT TO THE PARKING AND TRAFFIC REGULATIONS
OUTSIDE LONDON (PATROL) JOINT COMMITTEE**

INTRODUCTION

On behalf of the PATROL Joint Committee, I am delighted to receive this report of the Independent Review of Parking Documentation and Notices. The PATROL Joint Committee comprises local authorities who are enforcing traffic regulations in England (outside) London and Wales. The Joint Committee has been acutely aware of the importance of documents in the civil enforcement process for some time.

It became clear that vehicle owners would find it helpful if there is some consistency in documentation amongst local authorities and if it was possible to differentiate between London and outside London documentation. Parking and Traffic Regulations Outside London stem from different sections of the Road Traffic Act resulting in parking contraventions being expressed in different terminology from London contraventions. In addition differential charges apply at different levels outside London. The Joint Committee was keen to promote the different circumstances surrounding civil enforcement outside the capital.

The introduction of the Traffic Management Act 2004 provided a catalyst for the Joint Committee to draw upon independent expertise and commission an independent review of parking documentation and notices for its area of jurisdiction and was delighted when Stephen Sauvain agreed to chair the Review Committee. The composition of the Review Committee reflects the independence, impartiality and legal expertise required for such a review.

The challenge of conducting the review with regard to the legal requirements of the Act and the importance of being easily understood by the public cannot be understated. The Review Committee's report sets this out clearly.

It has been made clear to local authorities, that it is their responsibility to ensure that their documentation meets the statutory requirements of the Act. This report and the accompanying documents and guidance notes provides an excellent reference tool for councils and the public alike and the Joint Committee is keen to make this widely available for this purpose.

On behalf of the Joint Committee, I would like to thank each member of the Review Committee for their commitment and input into this timely review.

Cllr Ken Gregory

Chair of PATROL Joint Committee

FORWARD FROM THE CHAIR OF REVIEW COMMITTEE

In December 2007 I was invited to chair an independent committee to review the documents, notices and forms required by regulations made under the Traffic Management Act 2004 and to prepare specimen drafts to be recommended for use by local authorities outside London for civil enforcement of parking.

At the same time, I was asked to provide a brief overview on behalf of the Committee of the key issues which had arisen under the Road Traffic Act 1991 in respect of local authority notices and documents as a basis for more general recommendations regarding the pursuit of improvement in standards of local authority correspondence.

Over the last few months the Committee has produced a series of specimen documents which attempt to combine the essential requirements of the statutory regulations with principles of good practice and use of plain English. Inevitably conflicts have occurred between the desire to produce simple and easily understandable documents and the sometimes complex requirements of the regulations and statutory guidance. Whilst it must be for each enforcement authority to satisfy themselves that each document meets the statutory requirements as well as their own needs, it is hoped that the specimen documentation produced will nonetheless provide some guidance and assistance for enforcement authorities and motorists.

Finally, I should like to express the Committee's thanks to Jackie Gloag, who acted as Secretary to the Committee, for all her hard work in co-ordinating the material.

Stephen Sauvain Q.C.

September 2008

THE REVIEW COMMITTEE

Membership of the Review Committee

Chairman:

Stephen Sauvain Q.C.

Stephen Sauvain Q.C. is a barrister practising from Kings Chambers, Manchester and Leeds and at 2-3 Grays Inn Square, London. He is the editor of the Encyclopedia of Highway Law and Practice, the author of 'Highway Law,' and a past editor of the Road Traffic Encyclopedia - all published by Sweet & Maxwell. He was called to the Bar in 1977 and was appointed Queen's Counsel in 1995. He is an Assistant Boundary Commissioner. His areas of practice include highway law, traffic regulation and parking as well as town and country planning, local government law and public law. He has chaired, and given lectures at, several conferences addressing issues relating to traffic regulation and parking.

Members (chosen for their diverse relevant skills and expertise)

Anne Seex, Local Government Ombudsman

Anne Seex has been one of the three Local Government Ombudsmen for England since October 2005. She had worked in local government for twenty five years, serving as Chief Executive Officer of Norwich City Council before being appointed as Ombudsman.

Professor John Raine, Institute of Local Government Studies, University of Birmingham

John Raine is Professor of Management in Criminal Justice in the Institute of Local Government Studies, School of Government & Society, University of Birmingham.

John specialises in management in both local government and in criminal justice and has been teaching, researching and consulting in these fields at University of Birmingham since 1979. He has undertaken various research studies on local authority parking enforcement and in 2006 he advised the House of Commons Transport Select Committee in their review of this subject.

He has also acted as a specialist adviser to the Council of Europe on management in criminal justice and is a member of the Criminal Justice Council for England & Wales as well as a member for the Courts Board for West Mercia, Staffordshire & the

Black Country. He is also an elected district councillor for his home area of Malvern Hills.

Sheila Rainger, Head of Campaigns, RAC

Sheila Rainger is the Royal Automobile Club Foundation for Motoring's Head of Campaigns. She is an experienced public affairs and Government relations professional. Before joining the Foundation, she was the Archbishop of Canterbury's Deputy Public Affairs Secretary, responsible for advising Archbishop George Carey, Archbishop Rowan Williams and the twenty-five other Lords Spiritual on their work with Government, Parliament and the voluntary sector. She has also worked as a Parliamentary Analyst for a leading consultancy, and began her career as a Department for Transport Civil Servant. Sheila is a keen motorcyclist. Her current bike is a Triumph Adventurer.

John Rushton, 'Small Back Room' (Design & accessibility expertise)

Graphic Designer, Founder & Managing Director of Small Back Room: Communications Consultancy. Educated at Chelsea School of Art, past part-time lecturer at The Institute of Marketing, The London Institute Chairman of The Waterloo Quarter Business Improvement District.

Chris Bramham, Principal Legal Officer, (Development), Leeds City Council

A Principal Legal Officer with Leeds City Council with over 30 years local government experience. A specialist in highways, traffic management and transport related matters he has also an in depth knowledge of town and village green applications. An experienced lecturer he has been involved in the promotion of local acts of parliament, numerous public inquiries, as well as advising on all aspects of decriminalised parking enforcement. He has also been involved in the introduction of innovative highway and transport schemes including Leeds Supertram, Guided Bus and High Occupancy Vehicle Lanes.

Graham Marsh, Parking Manager, Manchester City Council

Graham Marsh is the Parking Manager for Manchester City Council. Graham joined the Council in 1973 and has worked across the number of departments within the authority, mainly in Finance. He joined the Parking Team in 1998 and was involved in the Councils move to adopt Decriminalised Parking in 1999 as well as setting up the Car Park Joint Venture company in the same year. Since 2003 Graham has held the position of Parking Manager, and has been instrumental in changing the delivery

of Parking Enforcement Services in Manchester, to deliver a reasonable, proportionate and customer focused quality service.

Ian Martin, Parking Manager, Sandwell Metropolitan Borough Council (and representing all the outside London Local Authorities in the Local Authority Special Interest Group of the British Parking Association)

Ian Martin has been in local government, working on road design and traffic schemes, for over 30 years. He has been engaged in the design and implementation of traffic management works of all types including parking restrictions and other traffic regulation orders.

In 1998 he became involved in driving the process of obtaining decriminalised enforcement powers in Sandwell, and has been the Parking Services Manager of their parking operation since its inception in April 2000. In addition to being responsible for enforcement, he also leads the team designing and drafting orders for all parking restrictions in the borough.

Andrew Pulham, Parking Manager. East Herts District Council

Andrew Pulham has worked in local authority parking management since 1990 (except for the period 2001-2005 when he worked with the then National Parking Adjudication Service as their Service Development Manager). He was part of a team that saw in DPE for the London Borough of Sutton in 1994 and now manages parking services for East Herts Council, as well as managing CPE for two neighbouring local authorities.

John Satchwell, (Bournemouth Borough Council and Chair of the Joint Committee's Advisory Board)

An employee of Bournemouth Borough Council, John is the Unitary Authority representative and current Chairman of the National TPT Advisory Board. He is a chartered engineer with 36 years of civil and municipal engineering experience, including responsibilities for parking management since 1996.

Derek McEwen, Parking Manager, Denbighshire County Council

Derek McEwen is the Parking Services Manager for Denbighshire County Council and WPPP (the Wales Penalty Processing Partnership).

He has worked within parking for the Local Authority for 25 years and Denbighshire were the first authority in North Wales to introduce Decriminalised Parking Enforcement in 2004.

In addition to running parking operations for Denbighshire, he developed and manages the collaborative work via WPPP; processing Penalty Charge Notice data on behalf of Gwynedd, Anglesey , Wrexham and Denbighshire since April 2007.

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REPORT

I Background

1. Incidences of shortcomings in the quality of parking enforcement documentation issued by local authorities, giving rise to frustration and anger on the part of motorists and leading sometimes to critical decisions from Adjudicators have been all too frequent over the period since civil enforcement processes (or decriminalised parking enforcement) were introduced more than a decade ago. Indeed, there have been several cases where the deficiencies have been such as to render the Penalty Charge Notices (PCNs) unenforceable, and the Adjudicators have noted a rising trend in the number of appellants relying on defective documentation as their main ground for appeal (even though the facts support a finding that a parking contravention had occurred).

2. In 2005 the Select Committee on Transport commented on the failure of many local authorities to provide sufficient information to motorists and car owners on the rights to challenge PCNs both informally by making representations to the local authority and formally to the parking adjudicators. The Committee recommended that

“Where drivers are issued with a Penalty Charge Notice, we expect the Department's guidance to require that councils make completely clear on the ticket (or on accompanying documentation) the process for paying the penalty charge; and the rights of the motorist to challenge the ticket through representations to the council and ultimately through the process of appeal to an independent adjudicator.”

3. This recommendation echoed the report of the Local Government Ombudsman in 2004 which again had been critical of the way information was made available, or in many cases not made available, to motorists and owners in the Notice to Owner (NtO)

“We consider that the form of the Notice to Owner used by many councils actively deters motorists from submitting pleas of mitigation . . . It does not seem to us that the Department for Transport's sample Notice to Owner makes it sufficiently clear to motorists that they can put forward mitigating circumstances . . .”

4. The same report also criticized some of the Notices of Rejection (NOR) inspected on the grounds that they gave no recognition to the local authorities' duty to consider representations and to their power to exercise discretion.
5. At the same time the need for statutory notices to avoid the impenetrable legalese of the statutory draughtsman and to adopt plainer styles of English has been more generally recognised.
6. Of particular legal significance in the context of the information required to be provided in parking documentation was the decision of the High Court in *R v the Parking Adjudicator ex parte Barnet Local Authority* where it was found that a PCN that did not comply with the statutory requirements was therefore to be regarded as void and unenforceable. The particular failure which resulted in the Court's decision concerned the failure of PCNs to contain both the date of contravention and the date of issue of the Notice. Interestingly, the original guidance issued by the Department for Transport itself had included a specimen notice which only contained the date of issue (see Circular 1/95 Annex 12.1).
7. Generally, however, the statutory provisions and departmental guidance were both light on what information ought to be provided in the documentation and inevitably different authorities had adopted different forms and practices. Equally, the powers given to Adjudicators to determine appeals where incorrect or misleading documentation had been used were by no means as clear as they could have been.
8. The implementation of the Traffic Management Act 2004 provided the opportunity for the notices and procedures to be revised, for the introduction of greater clarity into the amount of information required to be provided to motorists in the statutory documentation and for the powers of Adjudicators to be clarified. A series of regulations have been made which now provide greater definition but which, in doing so, have provided their own challenges in terms of how relatively complex procedures and statutory formalities can be conveyed to the motorist in an understandable and (necessarily in the case of a PCN generated by a hand held computer) concise manner.
9. The procedures for service of Penalty Charge Notices, Notices to Owners, Notice of Rejection and Charge Certificates and the information which must be contained in each of these documents are now contained, so far as England is concerned, in the Civil

Enforcement of Parking Contraventions (England) General Regulations 2007 and the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007. These regulations were only published in their final form in mid December 2007 - with a proposed commencement date of March 31 2008. In Wales the equivalent regulations – the Civil Enforcement of Parking Contraventions (Representations and Appeals) (Wales) Regulations 2008, the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008 and the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) Regulations 2008 were not made until March 6th 2008 – with the same commencement date as the English regulations. Both the English and the Welsh regulations have been the subject of subsequent amendment whilst the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No. 2) Regulations 2008 made on 29th April 2008, revoked the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) Regulations 2008. Relatively little time was, therefore, made available to local authorities to absorb the new requirements and to change their documentation.

10. It is against this background, and in preparation for the implementation of the civil enforcement provisions of the Traffic Management Act 2004, that in December 2007 the National Parking Adjudication Service Joint Committee (which body is now known as Parking and Traffic Regulations Outside London or “PATROL” Joint Committee) invited Stephen Sauvain Q.C. to chair an independent committee to review the documents, notices and forms required by regulations made under the Traffic Management Act 2004 and to prepare specimen drafts to be recommended for use by local authorities outside London for civil enforcement of parking.
11. At the same time, the Committee was asked to provide a brief overview of the key issues which had arisen under the Road Traffic Act 1991 in respect of local authority notices and documents as a basis for more general recommendations regarding the pursuit of improvement in standards of local authority correspondence.
12. A full copy of the Terms of Reference of the Committee, together with the names and backgrounds of the membership is attached at Appendix 1 to this Report.

13. Two meetings of the Committee have been held at which various types of documentation were reviewed and a series of specimen documents produced. There has subsequently been considerable refinement of the original drafts and the production of guidance notes to accompany them. Specimen notices have been made available to local authority members of the NPAS (now PATROL) Joint Committee.

II ISSUES RELATING TO NOTICES AND DOCUMENTS UNDER THE ROAD TRAFFIC ACT 1991 PROCEDURES.

A The statutory requirements

14. The 1991 Act, and the regulations made under it, contained relatively little in the way of express requirements as to the information to be provided in the statutory documentation. That legislation is, however, difficult to follow in relation to the legal position outside London because it requires the 1991 Act to be read together with the modifications introduced in each Special Parking Area and Permitted Parking Area Order.
15. Section 66 of the 1991 Act simply required that a penalty charge notice should contain
 - (a) the grounds on which the parking attendant believes that a penalty charge is payable with respect to the vehicle;
 - (b) the amount of the penalty charge which is payable;
 - (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - (d) that if the penalty charge is paid before the end of the period of 14 days beginning with the date of the notice, the amount of the penalty charge will be reduced by the specified proportion;
 - (e) that, if the penalty charge is not paid before the end of the 28 day period, a notice to owner may be served by the London authority on the person appearing to them to be the owner of the vehicle;
 - (f) the address to which payment of the penalty charge must be sent.

16. Paragraph 1 of Schedule 6 to the 1991 Act required that the Notice to Owner should contain
 - (a) the amount of the penalty charge payable;
 - (b) the grounds on which the parking attendant who issued the penalty charge notice believed that a penalty charge was payable with respect to the vehicle;
 - (c) that the penalty charge must be paid before the end of the period of 28 days beginning with the date on which the notice to owner is served;
 - (d) that failure to pay the penalty charge may lead to an increased charge being payable;
 - (e) the amount of that increased charge;
 - (f) that the person on whom the notice is served may be entitled to make representations to the local authority; and
 - (g) the right of appeal to the adjudicator if representations to the local authority were rejected.
17. It is pertinent to note that neither provision has any explicit requirement as to what dates should be contained on the face of these notices although section 66 refers to the “date of the notice” in terms of defining the period allowed for payment of the penalty charge. This time period allowed for payment was also expressed in a particular way – requiring payment “before the end of the 28 day period.”
18. Paragraph 4 of the Schedule dealt with the circumstances where representations made to a local authority had been rejected and required the notice of rejection to
 - (a) state that a charge certificate may be served under paragraph 6 below unless before the end of the period of 28 days beginning with the date of service of the notice of rejection—
 - (i) the penalty charge is paid; or
 - (ii) the person on whom the notice is served appeals to a parking adjudicator against the penalty charge;

- (b) indicate the nature of a parking adjudicator's power to award costs against any person appealing to him; and
- (c) describe in general terms the form and manner in which an appeal to a parking adjudicator must be made,

and that it may contain such other information as the authority consider appropriate.

- 19. Paragraph 6 required that the charge certificate should simply be a notice "to the effect" that the penalty charge in question is increased by 50 per cent.

B The emerging problems with the procedures

- 20. The deficiencies in the way in which the statutory procedures were being interpreted by local authorities were shown up in a number of ways.
- 21. First, the annual reports of the adjudication service regularly highlighted examples of procedural errors made by local authorities in relation to their documentation.
- 22. Secondly, the *Barnet* decision confirmed the decisions taken by Adjudicators that a penalty charge notice must contain two dates – the date of the parking contravention so that the motorist/owner should know when the parking contravention was alleged to have occurred and the date of the issue of the Notice – because the statutory time periods for payment and/or appeal ran from that date. That decision, and earlier decisions by Adjudicators (for example *Macarthur v Bury MBC*), also highlighted a difference between the statutory expression of the time limit for payment of the penalty charge (i.e. "before the end of the 28 day period") and the wording used in the Circular 1/95 and adopted by a number of parking authorities.
- 23. In other adjudicators' decisions the wording of the Notice to Owner and the letters rejecting representations were criticized by adjudicators: Examples include:

Pooley v Dartford B.C. – letter notifying owner of rejection of representations.

Lukha v Aylebury Vale D.C. – Notice to Owner, Notice of Rejection and Charge Certificate.

24. Thirdly, the Local Government Ombudsman investigated a number of complaints in 2004 arising out of the operation of the de-criminalised parking regime and recorded “ a sense of injustice because the complainants feel that they have not been listened to.”

“We have observed a wide variety of practice on the part of councils as to how motorists who feel a penalty is unfair or unwarranted are afforded an opportunity to make their case. This may stem in part from a lack of clarity about what issues a council can consider when a motorist wishes to challenge a penalty charge.”

25. The report concluded

“We commend all councils to look critically at their documentation, advice and procedures in respect of the 1991 Act scheme, to ensure that pleas of mitigation are not unreasonably deterred and are given proper consideration. In doing so, we hope that councils will find the following points helpful:

- Discretion can be exercised at any point in the procedure. Councils should not restrict consideration of mitigation to any particular part of the process, such as the period prior to the issue of the Notice to Owner.
- Councils should ensure that they establish clear guidance and procedures for dealing with pleas of mitigation, and that staff who consider representations receive guidance and training to enable them to make rational and consistent decisions on the exercise of discretion.
- Decisions on the exercise of discretion must be clearly explained to motorists, particularly when representations are not accepted.
- Guidance given to staff or information given to the public on how discretion will be exercised should not have the effect of fettering councils’ discretion. They should not, for example, list reasons for waiving a penalty charge which would never be accepted.”

26. The Local Government Ombudsman also noted specific issues relating to the Notice to Owner and Notices of Rejection – which are quoted above.

27. Finally, the Select Committee on Transport has made a number of recommendations on how the procedures for civil enforcement could be improved.

III THE TRAFFIC MANAGEMENT ACT PROVISIONS

A Introduction

28. The Traffic Management Act 2004 (TMA) has resulted in two sets of Regulations which deal with the form and content of parking documentation, both of which need to be read with reference to the Act itself and with reference to each other. The Regulations are more complex and in some respects even less clearly phrased than the equivalent RTA provisions and are, in some instances, not easy to interpret. The form of penalty charge notices is also made complicated by the fact that there are two types of these notices – those that are served on the spot (Regulation 9 Notices) and those that are served by post (Regulation 10 Notices).

B The Regulation 9 penalty charge notices (PCNs)

29. The statutory requirements for a Regulation 9 Penalty Charge Notice in England are set out in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, Regulation 9 and the Schedule to those regulations and in the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, Regulation 3.
30. In addition the Secretary of State has issued Guidance under the Traffic Management Act, section 87 to which local authorities exercising civil parking enforcement functions are required to have regard.
31. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, require that a regulation 9 PCN should contain:
 - (a) The date on which the notice is served.
 - (b) The name of the enforcement authority.
 - (c) The registration mark of 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 believed that a penalty charge is payable.
 - (f) The amount of the penalty charge.
 - (g) The information 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) The information 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.
 - (j) The information that if the penalty charge is not paid before the end of the period of 28 days a notice to owner may be served by the enforcement authority on the owner of the vehicle.
32. The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, require (Regulation 3(2)) that the PCN should contain the information that,
- (a) 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) 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 those representations will be considered; 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.
33. The Statutory Guidance recommends that a PCN should also contain
- (a) PCN number (all PCNs should be uniquely identifiable).
 - (b) CEO's identification number.

- (c) Vehicle make and colour (if evident).
 - (d) Vehicle's tax disc number and expiry date.
 - (e) Detailed location of vehicle (full street name).
 - (f) Observations start and finish times.
 - (g) Contravention Code.
34. However, there remains no statutory requirement to set out on the PCN the procedure which may be adopted to challenge the PCN informally prior to making any formal representations. The Statutory Guidance, however, requires that all authorities should have in place staff and procedures for dealing with these informal challenges. It also states, at para.86:
- “Enforcement authorities have a duty not to fetter their discretion, so should ensure that PCNs, NtOs, leaflets and any other advice they give do not mislead the public about what they may consider in the way of representations. They should approach the exercise of discretion objectively and without regard to any financial interest in the penalty or decisions that may have been taken at an earlier stage in proceedings. Authorities should formulate (with advice from their legal department) and then publish their policies on the exercise of discretion. They should apply these policies flexibly and judge each case on its merits. An enforcement authority should be ready to depart from its policies if the particular circumstances of the case warrant it. “
35. Bearing in mind past criticisms about the lack of information provided to motorists about the informal challenge process and, in some cases, the potential for existing documentation to mislead motorists as to the availability of a discretion to cancel the penalty charge it was considered that the parking documentation, starting with the PCN, should also provide information about these procedures and the existence of any relevant Council policies. Thus, the Committee took the view that the information relating to the informal “challenge” process, in addition to information relating to the more formal “representations” process (which follows the issue of the NtO), and the right of appeal to adjudicators should be contained on the specimen PCN.

36. To distinguish between the various procedures the following terminology has been used.

“challenge” – to refer to the informal process of making representations to the local authority before any NtO has been issued;

“representations” to refer to the process of making formal representations to the local authority following issue of the NtO or regulation 10 PCN.

“appeal” to refer to the appeal to an adjudicator.

37. Thus, a considerable amount of information has had to be included on the PCN – to be expressed in as clear a manner possible.

C The Notice to Owner

38. Following the service of a regulation 9 PCN, in cases where the penalty charge has not been paid within the required time period and/or informal representations have been rejected, a Notice to Owner (NtO) may be served under regulation 19 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007. Regulation 19 contains certain requirements as to the information to be contained in such notices namely:

- (a) the date of the notice, which must be the date on which the notice is posted;
- (b) the name of the enforcement authority serving the notice;
- (c) the amount of the penalty charge payable;
- (d) the date on which the penalty charge notice was served;
- (e) the grounds on which the civil enforcement officer who served the penalty charge notice under regulation 9 believed that a penalty charge was payable with respect to the vehicle;
- (f) that the penalty charge, if not already paid, must be paid within “the payment period” as defined by regulation 3(3)(a) of the Representations and Appeals Regulations;
- (g) that if, after the payment period has expired, no representations have been made under regulation 4 of the Representations and Appeals Regulations and the penalty

charge has not been paid, the enforcement authority may increase the penalty charge by the applicable surcharge; and

(h) the amount of the increased penalty charge.

39. Additionally, regulation 3(3) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations requires the notice to include:

(a) The information that representations on the basis specified in regulation 4 against payment of the penalty charge may be made to the enforcement authority, but that any representations made outside the period of 28 days beginning with the date on which the notice is served (“the payment period”) may be disregarded.

(b) The nature of the representations which may be made under regulation 4; i.e. which may be to **either or both** of the following effects:

(i) that, in relation to the alleged contravention on account of which the notice to owner was served, one or more of the grounds specified below applies; and/or

(ii) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.

(c) The address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made.

(d) That if representations which have been made within the payment period; or outside that period but not disregarded, are not accepted by the enforcement authority the recipient of the notice may appeal against the authority’s decision to an adjudicator.

(e) In general terms, the form and manner in which an appeal may be made.

40. The specified grounds for making representations are:

(a) that the alleged contravention did not occur;

(b) that the recipient

- (i) never was the owner of the vehicle in question;
 - (ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - (iii) became its owner after that date;
- (c) that 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 consent of the owner;
- (d) that the recipient is a vehicle-hire firm and—
 - (i) the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement;
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
- (f) that there has been a procedural impropriety on the part of the enforcement authority;
- (g) that the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part VI of Schedule 9 to the 1984 Act applies, is invalid;
- (h) in a case where a penalty charge notice was served by post on the basis that a civil enforcement officer was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no civil enforcement officer was so prevented¹;
- (i) that the notice to owner should not have been served because—
 - (i) the penalty charge had already been paid in full;

¹ This ground will not, however, apply to a Notice to Owner served under reg. 19.

- (ii) the penalty charge had been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified in paragraph 1(h) of the Schedule to the General Regulations.
41. In relation to grounds (b) and (d) above the regulations require that specific information is provided about the name of the former or present owner and/or hirer of the vehicle.
 42. Under the Secretary of State's statutory guidance it is suggested that where a photograph or other camera evidence shows that the parking contravention took place, authorities should send this with the NtO, as it should help to prevent unfounded representations
 43. Additionally, the Committee felt that as the time for making representations runs from the date of service of the NtO and as the rules relating to service by post as expressed in the regulations are quite complex it was desirable that the Notice to Owner should include information relating to service. However, any attempt to try and set out the rules relating to postal service in a more simple or "plain English" way was felt to be capable of becoming even more cumbersome and thus potentially misleading. It has been recommended, therefore, that the full text of the relevant regulation be appended to the Notice to Owner. However, it must be stressed that this is not a mandatory requirement of the Regulations.

D Regulation 10 Notices to Owner

44. Regulation 10 deals with the service of PCN by post. There are three sets of circumstances in which this can occur and the Notices would have to be different depending on which set of circumstances applied, namely:
 - (a) Where on the basis of a record produced by an approved device, the authority has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area;
 - (b) Where a civil enforcement officer has attempted to serve a penalty charge notice in accordance with regulation 9 but was prevented from doing so by some person; and
 - (c) Where a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle concerned was driven away from the place in which it was stationary before the civil enforcement officer had

finished preparing the penalty charge notice or had served it in accordance with regulation 9,

45. It seemed to the Committee that these provisions required two distinct forms of notice – one relating to Regulation 10(1)(a) and one relating to regulation 10(1)(b) and (c) – although the wording of the latter two types of Notice would have to differ slightly to reflect the different circumstances. However, the statutory requirements relating to the content of the Notices are very similar. All regulation 10 notices have one thing in common in terms of their format. They are to operate both as a Penalty Charge Notice and as a Notice to Owner and the information required to be included within the notices reflects this.
46. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Schedule provides that the contents of a regulation 10 PCN shall include, in addition to the matters required to be included in it by regulation 3(4) of the Representations and Appeals Regulations, the following:
- (a) the date of the notice, which must be the date on which it is posted;
 - (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 amount of the penalty charge;
 - (f) the manner in which the penalty charge must be paid;
 - (g) the grounds on which the enforcement authority believes that a penalty charge is payable;
 - (h) 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 is served;
 - (i) that if the penalty charge is paid not later than the applicable date (i.e. in the case of a regulation 10 (i) (a) notice the last day of the period of 21 days beginning with the date on which the notice was served and in the case of the other two regulation 10

notices, the last day or the period of 14 days beginning with that date) the penalty charge will be reduced by the amount of any applicable discount;

- (j) that if after the last day of the period referred to above
 - (i) no representations have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and
 - (ii) the penalty charge has not been paid,

the enforcement authority may increase the penalty charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increased;

- (k) the amount of the increased penalty charge; and
- (l) (in relation to a regulation 10(1) (a) notice) that the penalty charge notice is being served by post on the basis of a record produced by an approved device;
- (m) (in relation to a regulation 10(1) (b) notice) that it is being so served, because a civil enforcement officer attempted to serve a penalty charge notice by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person; or
- (n) (in relation to a regulation 10(1) (c) notice) that it is being so served because a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9.

47. Regulation 3 of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 provides that a penalty charge notice served under regulation 10 of the General Regulations must, in addition to the matters required to be included in it under paragraph 2 of the Schedule to those Regulations, include the following information:

- (a) that representations (as specified in regulation 4) may be made to the enforcement authority against the imposition of the penalty charge but that representations made

outside the period of 28 days beginning with the date on which the penalty charge notice is served (“the representations period”) may be disregarded;

- (b) the nature of the representations which may be made under regulation 4;
- (c) the address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made;
- (d) that if representations which have been made either within the representations period; or outside that period but not disregarded, are not accepted by the enforcement authority the recipient of the penalty charge notice may appeal against the authority’s decision to an adjudicator;
- (e) where the penalty charge notice is served by virtue of regulation 10(1)(a) of the General Regulations (evidence produced by an approved device), that.
 - (i) the recipient of a penalty charge notice served by virtue of regulation 10(1)(a) of the General Regulations may, by notice in writing to the enforcement authority, request it to make available at one of its offices specified by him, free of charge and at a time during normal office hours so specified, for viewing by him or by his representative, the record of the contravention produced by the approved device pursuant to which the penalty charge was imposed; or to provide him, free of charge, with such still images from that record as, in the authority’s opinion, establish the contravention.
 - (ii) where the recipient of the penalty charge notice makes a request under paragraph (5), the enforcement authority shall comply with the request within a reasonable time.

N.B. whilst there is a requirement for a regulation 9 notice to include in general terms, the form and manner in which an appeal may be made this requirement is not expressly repeated for regulation 10 notices. However, it is difficult to see any reason for this distinction and it is recommended that this information be included.

48. The Secretary of State's Guidance recommends that a PCN should also include
- (a) vehicle make and colour (if evident);
 - (b) detailed location of vehicle (full street name);
 - (c) the contravention code;
 - (d) observation start and finish times;
 - (e) PCN number (all PCNs should be uniquely identifiable);
 - (f) CEO's identification number; and
 - (g) the vehicle's tax disc number and expiry date;
49. It is also recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN.

E The Notice of Rejection

50. Regulation 6 requires the Notice of Rejection

- (a) To state that a charge certificate may be served unless before the end of the period of 28 days beginning with the date of service of the notice of rejection the penalty charge is paid or the person on whom the notice is served appeals to an adjudicator against the penalty charge;
- (b) indicate the nature of an adjudicator's power to award costs; and
- (c) describe in general terms the form and manner in which an appeal to an adjudicator must be made.

and may contain such other information as the enforcement authority considers appropriate.

51. The Secretary of State's Guidance additionally indicates that the Notice should;

- (a) Tell the person making the representation (usually the owner of the vehicle) what the authority has decided to do and why.

- (b) If the person making the representation is not the owner (but is acting officially on their behalf) then the owner should be informed, where possible, of the decision.
- (c) The authority should give the owner clear and full reasons for its decision on a representation, in addition to the minimum required information.
- (d) If, following an unsuccessful representation, an authority decides to offer a new discount period for prompt payment, it should set out the dates of this period in the Notice of Rejection.

52. Whilst it is understood that authorities may prefer a “letter” style of Notice of Rejection there seemed to the Committee to be merit in ensuring that there is consistency as to the amount of information relating to the original PCN provided in each of the statutory documents. The specimen Notice of Rejection attempts to achieve this. The reasons given for rejecting the representations must deal with the statutory grounds that have been raised and, where appropriate, the authority’s decision as to why other compelling reasons have not been accepted.

F The Charge Certificate

53. Regulation 21 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 provides that:

- (a) A charge certificate may be served where a notice to owner (which term includes a regulation PCN) is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period
- (b) The charge certificate is a statement to the effect that the penalty charge in question is increased by the amount of the applicable surcharge.

54. The relevant period, in relation to a notice to owner, is the period of 28 days beginning—

- (a) where no representations are made under regulation 4 of the Representations and Appeals Regulations, with the date on which the notice to owner is served;
- (b) where—
 - (i) such representations are made;

- (ii) a notice of rejection is served by the authority concerned; and
 - (iii) no appeal against the notice of rejection is made,
- with the date on which the notice of rejection is served;
- (c) where an adjudicator has, under regulation 7(4) of the Representations and Appeals Regulations, recommended the enforcement authority to cancel the notice to owner, with the date on which the enforcement authority notifies the appellant under regulation 7(5) of those Regulations that it does not accept the recommendation; or
 - (d) in a case not falling within (c) above where there has been an unsuccessful appeal to an adjudicator under the Representations and Appeals Regulations against a notice of rejection, with the date on which notice of the adjudicator's decision is served on the appellant.
55. Furthermore, where an appeal against a notice of rejection is made but is withdrawn before the adjudicator serves notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal is withdrawn.
56. Regulation 22 states that where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of the period of 14 days beginning with the date on which the certificate is served, the enforcement authority may, if a county court so orders, recover the increased charge as if it were payable under a county court order.
57. The Statutory Guidance repeats the requirements in the regulations.
58. It was felt that, as the charge certificate can only be issued if the penalty charge has not been paid before the end of the relevant period it is important that the certificate should state that the payment has not been received before the end of that period. The relevant period, however, will run from a number of different dates depending on exactly what has happened previously. Again the question of trying to summarise the complex rules relating to the relevant period was weighed against the danger of producing something which was even more unwieldy or possibly misleading. Enforcement authorities were recommended, therefore, to include the relevant regulation dealing with the meaning of the relevant period on the reverse of the certificate.

G General Points

59. It was realised during the preparation of these specimen notices that the regulations contain contradictory information as to when a representation to a local authority may be disregarded as being submitted out of time. Regulation 3(4) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 requires that the PCN states that the representations which have not been “made” within the specified time period may be disregarded. However, regulation 5 states that an authority may only disregard any representations “received” after the specified time. This difference cannot be reconciled on the PCN itself without creating total confusion.
60. It has not been our remit to give legal advice to local authorities and it has been pointed out, therefore, that authorities should take their own legal advice as to how to deal with this inconsistency. It has been suggested, however, that all authorities could adopt a policy (which is made available to the public) that they will not disregard representations received after the expiry of the time limit where evidence (for example a postmark) indicates that the representations were made within that period. An entry referring to the existence of local authority policies has been included in the Specimen. However, it was also indicated that if any authority intends to disregard representations made within the required period but received after the expiry of the period then the use of the word “received” on the PCN would avoid misleading the Owner even though this is not in strict compliance with the regulations.
61. A particular difficulty in relation the description of the enforcement authority (which is required on PCNs) was also discovered in relation to non-metropolitan districts where the enforcement authority (as defined in the Act) for on-street parking contraventions may turn out to be different from the enforcement authority responsible for the civil enforcement of off-street parking contraventions.

H Wales

62. It has not been possible to produce draft documents which relate specifically to Wales. Whilst the Welsh regulations have different titles and the numbering of particular regulations will necessarily be different the requirements for the documentation is similar – although clearly a Welsh language version of each notice will also have to be prepared. It is hoped, therefore, that the documentation produced to meet the requirements of the English regulations will also prove helpful to the Welsh authorities.

I Documentation

63. The following specimen documents have been produced and circulated:

- (a) A specimen regulation 9 penalty charge notice;
- (b) A specimen Notice to Owner;
- (c) A specimen Notice of Rejection;
- (d) 2 specimen Penalty Charge Notices covering the situations set out in Regulation 10(1)(a) and 10(1)(b) and (c) of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007;
- (e) A specimen charge certificate;

64. In each case the documents have been accompanied by Notes of Guidance which provide explanation for the format adopted in each document.

65. In each case the specimen document is regarded by the Committee to contain all the information required by the relevant regulations and by standards of good practice. However, we have emphasised that it must be for each local authority to satisfy themselves that the form of document that they adopt is indeed compliant with the relevant regulations.

66. The twin objectives of the Committee in drafting these documents has been to produce a form of wording which both satisfies the statutory requirements and which is written in an appropriately accessible and understandable manner for all. Inevitably, there is a potential conflict between these objectives and it is right to acknowledge at the outset that the requirements of the regulations as to the amount and technical content of the information

which the various documents must contain has in practice placed considerable constraints on the latter objective.

J Recommendations relating to local authority correspondence

67. The report of the Local Government Ombudsman made it clear that local authorities were, at that time, often failing
- (a) to appreciate the extent of their discretion to cancel penalty charge notices,
 - (b) to explain the existence and extent of that discretion to motorists, and
 - (c) to make clear to motorists the reasons why their representations had failed to result in the cancellation of the Notice.
 - (d) It was emphasised that the provision of adequate training would be critical in improving performance in these areas.
68. Other than to stress the need to use plain English and, wherever possible, to use every effort to make it clear that the particular circumstances of each motorist's case have been carefully considered we can only repeat this advice.

IV CONCLUSION

69. Considerable debate has occurred as to the amount of information to be included within these specimen documents and as to the phraseology to be used in order both accurately to reflect the requirements of the regulations and to provide a document that is easily understandable by the motorist. Compromises have had to be made and it is perhaps inevitable therefore that some choices will not satisfy every critical observer. It is important, therefore, to repeat that the specimens produced are there for guidance to local authorities and that they should only be adopted by any local authority after careful consideration as to whether they meet the enforcement needs of that particular authority.

70. This work was initially requested to be completed in time for consideration by the National Parking Adjudication Service (NPAS) Joint Committee for their meeting in March 2008. Partly because of the relatively late production by government of the final regulations and statutory guidance, partly on account of the fact that the process of review itself proved more demanding than initially imagined, and partly because of the other professional commitments of members of the Committee, completion of the work and production of this report has taken rather longer than planned. However, it is hoped that it is still sufficiently timely to assist local authorities in relation to their civil parking enforcement documentation and to help ensure appropriately high standards in terms both of legal compliance and effective communication to recipients. It is now proposed that this report will be presented to the Parking and Traffic Regulations Outside London Joint Committee at their meeting on 7th October 2008.

APPENDICES

APPENDIX 1: SPECIMEN DOCUMENTATION

1. REGULATION 9 PENALTY CHARGE NOTICE

A SPECIMEN

B GUIDANCE NOTES

2. NOTICE TO OWNER

A SPECIMEN

B GUIDANCE NOTES

3. REGULATION 10) PENALTY CHARGE NOTICES

A SPECIMEN (Regulation 10(1)(a))

B GUIDANCE NOTES

C SPECIMEN (Regulation 10(1)(b), (c))

D GUIDANCE NOTES

4. NOTICE OF REJECTION

A SPECIMEN

B GUIDANCE NOTES

5. CHARGE CERTIFICATE

A SPECIMEN

B GUIDANCE NOTES

**REGULATION 9
PENALTY CHARGE
NOTICE:**

A) SPECIMEN

[NAME OF ENFORCEMENT AUTHORITY]

PENALTY CHARGE NOTICE (PCN)

The Traffic Management Act 2004, s.78; Civil Enforcement of Parking Contraventions (England) General Regulations 2007; Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007.

PCN Number: 1234567

Served on 1st April 2008
by Civil Enforcement Officer (CEO) X987
who had reason to believe that the following contravention had occurred and that a penalty charge is now payable

Parked in a restricted street during prescribed hours
(Code 01)

Date of contravention: 1st April 2008 Time 14:55
Location: Acacia Road
Vehicle Registration No. X123ABC
Make: Chrysler Colour: Pink^{Note A}
Tax disc: 0987654 Expiry: 02/08

Observed from: to:

Pay & Display Ticket No: ^{Note B} Expiry time: ^{Note B}

A penalty charge of **£60** is now payable and must be paid not later than the last day of the period of 28 days beginning with the date on which this PCN was served (i.e. 28th April 2008)^{Note C}.

The penalty charge will be reduced by a discount of 50% to **£30** if it is paid not later than the last day of the period of 14 days beginning with the date on which this PCN was served (i.e. 14th April 2008).^{Note C}

SEE REVERSE FOR: How to Pay.
How to challenge this PCN.
What happens if no payment is made.

.....
Detach here

Detach here

PAYMENT SLIP

PCN No: 1234567

Served on 1st April 2008 At 14.55

Vehicle Reg. X123ABC

Contravention Parked in a restricted street during
prescribed hours
Contravention Code Code 01

The Penalty Charge is £60; or £30 if paid not later than the last day of the period of 14 days beginning with the date on which this PCN was served.

If payment is made by post, please detach this slip, complete the details on the reverse and return it with your payment.

How to pay

- **By telephone** Credit / debit card payments only. Automated payment line **0123 345 6789** (24 hours/ 7 days a week). Have vehicle details and PCN number ready.
- **Online** at www.casterbridge.gov.uk. Follow links from **online payments**
- **By post** using the payment slip below to: PO Box 1234, Casterbridge. Allow 2 working days for 1st class post and 5 for 2nd class.
- **In person** at The Payments Office, Casterbridge Town Hall. Monday – Friday 9:00 – 16:30.

If you believe that the penalty should not be paid and wish to challenge this PCN

- **Write** to the Parking Department, Casterbridge District Council, Town Hall, Casterbridge, CS1 234 or
- **E-mail** parking@casterbridge.gov.

If you are unable to write or e mail, or have any other enquiry, please telephone 0123 456 7890.

Please quote the PCN Number, the vehicle registration and your address in all contacts

Details of the Council's policy and approach to challenges can be found at www.casterbridge.gov.uk/parking or seen at the Council's offices – all cases will be considered on their individual circumstances. *If you challenge this PCN within 14 days and the challenge is rejected [see accompanying Note D].*

If the Penalty Charge is not paid or challenged

If the penalty charge is not paid on or before the end of the 28 day period as specified on the front of this notice or successfully challenged the Council may serve a Notice to Owner (NtO) on the owner of the vehicle requiring payment of the penalty charge. The owner can then make representations to the Council and may appeal to an independent adjudicator if those representations are rejected. The NtO will contain instructions for doing this. If you challenge this PCN but the Council issues a NtO anyway, the owner must follow the instructions on the NtO.

Further information about Civil Parking Enforcement (including PCNs and NtOs) is available online at www.patrol-uk.info or in a leaflet available from the Council.

Please complete your details before returning this slip with your payment.																															
Name: Mr/ Mrs/ Miss/ Ms																															
Address:																															
Post code:																															
Make cheques or Postal orders payable to Casterbridge District Council and write the PCN number on the reverse. Only complete the details below if you wish to pay by MASTERCARD, VISA / SWITCH / VISA / SWITCH / DELTA /SOLO card.																															
Please debit my MASTERCARD / VISA / SWITCH / VISA / SWITCH / DELTA /SOLO card (delete as appropriate) (for Switch enter the 10 digit Switch number)																															
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Card expiry date .../...				Card Issue No.....																											
Name of cardholder																															
Signature																															
If you would like a receipt, please enclose a stamped, addressed envelope.																															

**REGULATION 9
PENALTY CHARGE
NOTICE:**

B) GUIDANCE NOTES

NOTES TO ACCOMPANY THE SPECIMEN REGULATION 9 PCN (ENGLAND)

Introduction

1. The attached Specimen Notice is intended as guide to best practice. In adopting a form of PCN all councils must nonetheless satisfy themselves that all the statutory requirements have been met.
2. The statutory requirements for a Regulation 9 Penalty Charge Notice in England are set out in the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, Regulation 9 and the Schedule to those regulations and in the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, Regulation 3.
3. In addition the Secretary of State has issued Guidance under the Traffic Management Act, section 87 to which local authorities exercising civil parking enforcement functions are required to have regard. Set out below is a checklist of the information required by the regulations or advised in the Secretary of State's Guidance to be contained in a regulation 9 PCN.
4. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007, require (Regulation 9) that the PCN should contain:
 - (a) The name of the enforcement authority.
 - (b) The date on which the notice is served.
 - (c) The registration mark of 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 believed that a penalty charge is payable.
 - (f) The amount of the penalty charge.
 - (g) The information 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) The information 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 information that if the penalty charge is not paid before the end of the period of 28 days a notice to owner may be served by the enforcement authority on the owner of the vehicle.
 - (j) The manner in which the penalty charge must be paid.
5. The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, require (Regulation 3(2)) that the PCN should contain the information that,
- (a) 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) 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 those representations will be considered; 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.
6. The Statutory Guidance recommends that a PCN should also contain
- (a) PCN number (all PCNs should be uniquely identifiable).
 - (b) CEO's identification number.
 - (c) Vehicle make and colour (if evident).
 - (d) Vehicle's tax disc number and expiry date.
 - (e) Detailed location of vehicle (full street name).
 - (f) Observations start and finish times.
 - (g) Contravention Code.

7. Explanatory Notes

- A. Whilst the Statutory Guidance does indicate that local authorities could include the colour of the vehicle on the PCN it may be considered that this could cause unnecessary confusion or uncertainty in some cases.
- B. Where relevant it is suggested that information relating to any Pay and Display Ticket is included on the Notice – but this is not a requirement of the regulations or guidance;
- C. If the technology allows for the date on which the statutory periods will expire to be included it is recommended that this be stated on the PCN in addition to (and not instead of) the statutory wording;

D. On the rear of the specimen PCN there is space for additional information (shown in italics) relating to the policies of the enforcement authority in relation to representations and other information available to the motorist which is not required by the regulations or guidance but which is considered to be desirable as good practice. The precise wording will have to be adjusted to represent the enforcement authority's own policies and available information. The following wording (depending on the policy of the particular Council concerned is suggested)

“If you challenge this PCN within 14 days and the challenge is rejected the Council will generally extend the period within which the reduced penalty charge may be paid.”

or

“If you challenge this PCN within 14 days and the challenge is rejected the council will usually re-offer the 14 day discount period.

or

“If you challenge this PCN within 14 days and the challenge is rejected the council does not normally re-offer the 14 day discount period. “If you challenge this PCN within 14 days and the challenge is rejected

or

“If you challenge this PCN within 14 days and the challenge is rejected the Council will generally not extend the period within which the reduced penalty charge may be paid.”

or

“If you challenge this PCN within 14 days and the challenge is rejected the Council will decide in each case whether or not to extend the period within which the reduced penalty charge may be paid.”

or

“If you challenge this PCN within 14 days and the challenge is rejected the council will make a decision as to whether to re-offer the 14 day discount period dependent on the circumstances of the individual case.”

PARKING DOCUMENTATION: NAME OF ENFORCEMENT AUTHORITY

GUIDANCE NOTE TO COUNTY AND NON-METROPOLITAN DISTRICT

AUTHORITIES

1. Paragraph 5 of Schedule 8 to the Traffic Management Act states that references to the enforcement authority in relation to parking contraventions in a civil enforcement area outside Greater London, are:
 - (a) in relation to contraventions relating to a parking place provided or authorised under section 32(1)(a) or (b) of the Road Traffic Regulation Act 1984 or designated by order under section 45 of that Act, to the authority by whom the parking place was provided, authorised or designated;
 - (b) in relation to other parking contraventions, to the local authority in whose area the contravention is committed.
2. This potentially incorporates **four** definitions of enforcement authority.
 - (a) That relating to contraventions in respect of a parking place provided by that authority under section 32(1) (a) of the 1984 Act.
 - (b) That relating to contraventions in respect of a parking place provided by that authority under section 32(1) (b) of the 1984 Act; subject to section 36(3) of the 1984 Act.
 - (c) That relating to contraventions in respect of parking places designated by that authority relating to section 45 of the 1984 Act.
 - (d) That relating to all other contraventions.
3. In England this may create some problems in identifying the correct enforcement authority in relation to specific contraventions in the areas of non metropolitan district councils. A particular problem would appear to be in relation to parking places provided a non metropolitan district council under section 32(1) (a) of the 1984 Act.
4. It is possible, for example, that a district council will be enforcing some parking contraventions as agent for the county council and others as enforcement authority in its own right.
5. The identification of the correct enforcement authority will affect the wording on the parking documents; for example the PCN must contain the name of the enforcement authority. The details relating to the payment of the penalty charges will inevitably

reflect the particular arrangements within each local authority area. However, any references to the Council which serves the Notice to Owner (NtO) and to whom representations made in respect of the NtO (for example on the second page of the specimen PCN) must contain references to the enforcement authority.

6. Authorities should, therefore, be aware that depending upon the precise circumstances it may be necessary to have a differently worded PCN for on street and off-street parking contraventions in the areas of some districts.
7. **County Councils and District Councils are, therefore, advised to take their own legal advice as to which authority is the enforcement authority in their particular areas, in relation to particular parking contraventions and under the arrangements that have been made between the county council and the district council in relation to enforcement, and as to how the parking documentation issued in their areas should reflect these working arrangements. Any PCNs used in these areas must then be worded to refer to the correct enforcement authority and to reflect those working arrangements.**

NOTICE TO OWNER:

A) SPECIMEN

(NAME OF ENFORCEMENT AUTHORITY)

NOTICE TO OWNER (NtO)

The Traffic Management Act 2004, s82; Civil Enforcement of Parking Contraventions (England) General Regulations 2007; Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007

Date of this Notice to Owner and date of posting **30th April 2008**

To: T Hardy of Somewhere Cottages, Somewhere.

This Notice has been served on you because it appears to the [name of enforcement authority] that you are the owner of ^{Note A}

Vehicle Registration Number: X123ABC Make: Chrysler;
Tax Disc: 0987654 ; Expiry: 02/08 [Colour: Pink]^{Note B}
in respect of which vehicle Penalty Charge Notice (PCN) Number 1234567 was served on
1st April 2008 by Civil Enforcement Officer (CEO) X987
who had reason to believe that the following contravention had occurred and that a penalty
charge is payable:

Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge (Code 40)

Location: Arcadia Road

Date of Contravention: 1st April 2008 Time 14:55.

The penalty charge is [£..]. To date [£..] has been received. [£..] is outstanding.

NOTE: The person appearing to be in charge of the vehicle was served with a penalty charge notice (PCN) which allowed 14 days for payment of a 50% discounted penalty charge; otherwise the full penalty charge became due. Either no payment has been received or any payment received has been insufficient to clear the penalty charge.

A penalty charge of [£..] is now payable by you as the owner and must be paid not later than the last day of the period of 28 days beginning with the date on which this Notice is served. This Notice will be taken to have been served on the second working day after the day of posting (as shown above) unless you can show that it was not.

You may make representations to the [name of enforcement authority] as to why this penalty charge should not be paid. These representations should be made not later than the last day of the period of 28 days beginning with the date on which this Notice is served and any representations which are made outside that period may be disregarded.

NOTE: If you do not pay the penalty charge or make representations before the end of the 28 day period specified above the Council may increase the original penalty charge by 50% to [£..] and take steps to enforce payment.

SEE REVERSE FOR:

How to pay. How to make representations.

HOW TO PAY

- **By telephone** Credit / debit card payments only. Automated payment line **0123 345 6789** (24 hours/ 7 days a week). Have card and vehicle details and PCN number ready.
- **Online** at www.somewhere.gov.uk. Follow links from **online payments**
- **By post** using the payment slip below to: PO Box 1234, Somewhere. Allow 2 working days for 1st class post and 5 for 2nd class.
- **In person** at The Payments Office, Town Hall. Monday – Friday 9:00 – 16:30.

HOW TO MAKE REPRESENTATIONS

If you believe that the penalty charge should not be paid you may make representations to the [*name of enforcement authority/to the xyz district council who is acting as the agent for the enforcement authority*]. Representations must be in writing and you may use this form. The representations may be made by:

Post at PO Box 1234, Somewhere;

FAX to 0123 456 7891;

E mail to parking@somewhere.gov.uk or

Online at www.somewhere.gov.uk/parking/NtO

If you are unable to use any of these methods or have any other enquiry, please telephone 0123 456 7890.

Representations which are made after the end of the 28 day period specified on the first page of this Notice may be disregarded. This Notice will be taken to have been served on the second working day after the day of posting unless you can show that it was not. *For more information on this, please turn to the last page of this Notice.*^{Note C} If you submit your representations late, you should explain why.

The statutory grounds on which representations may be made are set out below together with an indication of the information which you should supply in support of your representations. It is important to provide all relevant information. Tick the relevant boxes and write your reasons in the box on the following page. This Notice **will** be cancelled if one or more of the specified grounds is established. This Notice **may** be cancelled for other compelling reasons even if none of the specified grounds apply. If the Notice is cancelled any sums already paid will be refunded.

If your representations are received in time or are received late but are taken into account, the [*name of enforcement authority/ xyz district council who is acting as the agent for the enforcement authority*] will let you know its decision in writing not later than the last day of the period of 56 days beginning with the date on which your representation was served on it. If it fails to do so, this Notice will be cancelled and any sums already paid will be refunded. If your representations are rejected, you have the right to appeal against that decision to an independent Adjudicator. An appeal form will be sent with the letter rejecting your representations. The form will explain how and when to appeal to the adjudicator.

The [*name of enforcement authority's*] policy^{Note D} about late representations and/or representations not covered by the statutory grounds can be found on www.somewhere.gov.uk/NtO or in a leaflet available from the Council offices.

Further information about Civil Parking Enforcement (including PCNs and NtOs) is available online at www.patrol-uk.info or in a leaflet available from the enforcement authority.^{Note C}

[Please turn to Page 3]

THE SPECIFIED GROUNDS

- The alleged contravention did not occur.**
(Please explain why you believe no contravention took place)

- I was never the owner of the vehicle in question/ or**
- I had ceased to be its owner before the date on which the alleged contravention occurred/ or**
- I became its owner after the date on which the alleged contravention occurred.**
(If you bought or sold the vehicle, you **must** give the new or former owner's name and address if you have it. Please also provide the date of the transaction and any other details, and include copies of any documents such as an invoice or bill of sale)

- 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 consent of the owner.**
(Tick this box if your vehicle was stolen or taken without your consent. Please provide any supporting information that you may have e.g. any crime reference or insurance claim reference).

- We are a vehicle-hire firm and the vehicle was on hire under a hiring agreement and the hirer had signed a statement acknowledging liability for any PCN issued during the hiring period.**
(The hiring agreement must be one which qualifies by containing prescribed particulars. You **must** supply the name and address of the hirer. Please also supply a copy of the signed agreement)

- The penalty charge exceeded the amount applicable in the circumstances of the case.**
(Tick this box if you think you are being asked to pay more than is required by law and explain why.)

- There has been a procedural impropriety by the enforcement authority.**
(Tick this box if you believe that the [*name of enforcement authority*] has failed to comply with any requirement imposed by the Traffic Management Act 2004, by the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 or by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulations.
Please set out the statutory requirement, time limit or other procedural step with which you believe that the Council has failed to comply.)

- The Order which is alleged to have been contravened in relation to the vehicle concerned is invalid.**
(Please explain why you believe that the Order in question is invalid. *Please note that this ground will not apply in respect of a provision in an Order to which Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 applies.*^{Note D)}

- This Notice should not have been served because the penalty charge had already been paid:**
 - (i) **in full; or**
 - (ii) **at the discounted rate** set in accordance with Schedule 9 to the Traffic Management Act 2004 Act and **within the time specified in paragraph 1(h) of the Schedule to the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.**
(Please indicate the amount of the payment made and when and how the payment was made and include a copy of any supporting documentary information such as a receipt or bank statement.
N.B. The discounted rate was 50% of the penalty charge and should have been paid not later than the last day of the period of 14 days beginning with the date on which the PCN was served.

OTHER GROUNDS

- If there are any other reasons why you consider the Council should cancel the penalty charge notice and refund any sum already paid please tick this box and set out those reasons in full in the box on the following page.**
[Please turn to Page 4]

Write your representations here (attach any extra sheets if necessary)

Name and address of buyer / seller / hirer of vehicle (where relevant).

I confirm that my representations are true to the best of my knowledge. I realise that knowingly or recklessly making a false statement may result in prosecution and a fine upon conviction of up to level 5 on the standard scale (currently £5,000).

Signature..... Date:.....

NAME (in capitals)

position in company (if relevant)

[Please turn to Page 5]

THE RULE RELATING TO SERVICE^{Note C}

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007: Regulation 3

“Service by post

3—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

- (a) may be served by first class (but not second class) post; and
- (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

- (a) a Saturday or a Sunday;
- (b) New Year’s Day;
- (c) Good Friday;
- (d) Christmas Day;
- (e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

- (a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and
- (b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.”

NOTICE TO OWNER:

B) GUIDANCE NOTES

SPECIMEN NOTICE TO OWNER (NtO)

GUIDANCE NOTES

1. **Please note** that this Specimen Notice to Owner (NtO) is designed to indicate what information is required by the Regulations to be included in an NtO served under regulation 19 of the Civil Enforcement of Parking Contraventions (England) General Regulations and by good practice. The amount of information required by the regulations, and the way in which the regulations are worded, make this a relatively long and complicated document. There are also some apparent inconsistencies in the regulations. **It remains the responsibility of each authority independently to satisfy itself that the Notice to Owner that it adopts satisfies the statutory requirements.** This Specimen only applies to an NtO served under regulation 19. A separate Specimen will be prepared dealing with regulation 10 PCNs.

2. Authorities should also note the following.

The statutory requirements

3. There is set out below a check list of the various requirements as to what the NtO should contain.

Under regulation 19 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007

- the date of the notice, which must be the date on which the notice is posted;
- the name of the enforcement authority serving the notice;
- the amount of the penalty charge payable;
- the date on which the penalty charge notice was served;
- the grounds on which the civil enforcement officer who served the penalty charge notice under regulation 9 believed that a penalty charge was payable with respect to the vehicle;

- that the penalty charge, if not already paid, must be paid within “the payment period” as defined by regulation 3(3)(a) of the Representations and Appeals Regulations;
- that if, after the payment period has expired, no representations have been made under regulation 4 of the Representations and Appeals Regulations and the penalty charge has not been paid, the enforcement authority may increase the penalty charge by the applicable surcharge; and
- the amount of the increased penalty charge.

Under Regulation 3(3) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations.

- The information that representations on the basis specified in regulation 4 against payment of the penalty charge may be made to the enforcement authority, but that any representations made outside the period of 28 days beginning with the date on which the notice is served (“the payment period”) may be disregarded
- the nature of the representations which may be made under regulation 4; i.e. which may be to **either or both** of the following effects:
 - that, in relation to the alleged contravention on account of which the notice to owner was served, one or more of the grounds specified below applies; and/or
 - that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge.
- the address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made;
- that if representations which have been made within the payment period; or outside that period but not disregarded, are not accepted by the enforcement authority the recipient of the notice may appeal against the authority’s decision to an adjudicator; and
- in general terms, the form and manner in which an appeal may be made.

The specified grounds are:

- (a) that the alleged contravention did not occur;
- (b) that the recipient
 - i) never was the owner of the vehicle in question;
 - ii) had ceased to be its owner before the date on which the alleged contravention occurred; or
 - iii) became its owner after that date;
- (c) that 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 consent of the owner;
- (d) that the recipient is a vehicle-hire firm and—
 - i) the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement;
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
- (f) that there has been a procedural impropriety on the part of the enforcement authority;
- (g) that the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part VI of Schedule 9 to the 1984 Act applies, is invalid;
- (h) *in a case where a penalty charge notice was served by post on the basis that a civil enforcement officer was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no civil enforcement officer was so prevented¹;*

¹ This ground will not apply to a Notice to Owner served under reg. 19.

- (i) that the notice to owner should not have been served because—
 - (i) the penalty charge had already been paid in full;
 - (ii) the penalty charge had been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified in paragraph 1(h) of the Schedule to the General Regulations.

N.B. in relation to grounds (b) and (d) above the regulations require that specific information is provided about the name of the former or present owner and/or hirer of the vehicle.

Under the Secretary of State's statutory guidance

Where a photograph or other camera evidence shows that the parking contravention took place, authorities should send this with the NtO, as it should help to prevent unfounded representations

Enforcement Authorities

3. In the areas of non metropolitan district councils where district councils may be acting as agent for the county council in relation to some parking contraventions and acting on its own behalf in relation to others care will have to be taken to identify the correct enforcement authority on the NtO.

Dates and Service

4. The regulations require that the NtO should be dated and that this should be the date of posting. It will be essential, therefore, that the NtO is actually posted on that date and that Councils should have clear and reliable systems recording the fact and date of postage. However, the time for making representations runs from the date of service of the NtO. It is not a statutory requirement that the date of service be included on the NtO and bearing in mind the rules relating to when service will be deemed to have been served this would prove to be difficult, if not impossible, to include in a computer generated notice. It is, however, considered to be necessary to provide an indication to the Owner as to when the period in which representations may be made will begin. This follows from the logic of the *Barnet* decision.
5. Regulation 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 contains the rules as to service by post. These are set out below:

“Service by post

3.(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

(a) may be served by first class (but not second class) post; and

(b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

a) a Saturday or a Sunday;

b) New Year’s Day;

c) Good Friday;

d) Christmas Day;

e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and

b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.”

6. It can be seen, therefore, that the specimen NtO does not include all of this information and, in particular, it does not address the situation of car hire firms who have agreed to have information submitted electronically. To do so would make the NtO even longer and

make it more difficult for the ordinary motorist to understand. Authorities may, however, consider it sensible to attach to the NtO a copy of Regulation 3 with a note on the NtO itself cross referring to the regulation. This Specimen, therefore, contains this as an option. Alternatively, authorities may wish to include a reference to the fact that the rules relating to service are to be found in regulation 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

7. Please also note that NtOs must be sent by First Class post in order to rely on the rule relating to service.

Photographic evidence

8. The Secretary of State's Guidance refers to the possibility of attaching photographic evidence to the NtO. Authorities may, therefore, wish to consider whether to include a reference to this in the Notice itself.

Inconsistencies in the regulations

9. The regulations contain contradictory information as to when a representation may be disregarded as being submitted out of time. Regulation 3(3) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 requires that the NtO states that the representations which have not been "made" within the specified time period may be disregarded. However, regulation 5 states that an authority may only disregard any representations "received" after the specified time. This difference cannot be reconciled on the NtO itself without creating total confusion. Authorities should take their own legal advice as to deal with this inconsistency. It is suggested that all authorities could adopt a policy (which is made available to the public) that they will not disregard representations received after the expiry of the time limit where evidence (for example a postmark) indicates that the representations were made within that period. An entry referring to such a policy has been included in the Specimen. However, if any authority intends to disregard representations made within the required period but received after the expiry of the period then the use of the word "received" on the NtO would avoid misleading the Owner even though this is not in strict compliance with the regulations.
10. The regulations are also inconsistent in relation to what is to be the result of a successful representation (or a representation that is deemed to have succeeded if the enforcement authority does not respond in time). Regulation 5(3) states that the enforcement authority

is to cancel the **notice to owner** and refund any sums already paid. Regulation 5(5) applies the same duty to cases where the authority is deemed to have accepted the representations when it fails to respond in time. However, regulation 4(2)(ii) states that a person may make representations that “there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel **the penalty charge** and refund any sum paid to it.” The NtO is required, however, to include both these pieces of information. The important point for the motorist is to know that any sums already paid will be refunded and they will not be held liable for the penalty charge.

Other matters

11. Regulation 14 states that a person who makes any representation under Part 2 or 3 of these Regulations which is false in a material particular, and does so recklessly or knowing it to be false, is guilty of an offence. Whilst there is no requirement to state this on the NtO it is considered best practice to do so.
12. Please note that the Statutory Ground which refers to the circumstances where a Notice has been served by post does not apply to regulation 9 PCNs and Notices to Owner served under regulation 19. It has, therefore, been omitted from this Specimen.
13. There are a number of specific notes to the attached Specimen namely:

Note A

14. If the NtO is being served on a person who has been identified as the hirer of the vehicle and who is to be treated as the owner for the purposes of Regulation 5(3) of the General regulations, instead of the words “you are the owner” the words “were the hirer” will be more appropriate.

Note B

15. If the colour of the vehicle has been specified on the PCN then the enforcement authority may wish to include it on the NtO. Inclusion of the colour is not, however, a statutory requirement although the Secretary of State’s Statutory Guidance recommends inclusion of the colour of a vehicle in the PCN.

Note C

16. It is recommended that there should be a reference to the date of service. As the rules regarding service are complicated it may be considered desirable to attach a copy of Regulation 3 at the end of the NtO.

Note D

17. Enforcement authorities are encouraged to have a published policy as to the sorts of circumstances in which it would be prepared to consider other reasons for cancelling the notice and/or the circumstances in which it would be prepared to accept late representations. It is recommended that the NtO refers the Owner to where that policy can be viewed. The policy should always allow for exceptional circumstances.

Note E

18. The reference to Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 is not required to be stated in the NtO. However, as the regulations make express reference to Part VI of the 1984 Act enforcement authorities may wish to point the Owner to the existence of this exclusion.

**REGULATION 10
PENALTY CHARGE
NOTICE:**

**A) SPECIMEN Regulation
10 (1)(a)**

(NAME OF ENFORCEMENT AUTHORITY)

PENALTY CHARGE NOTICE (PCN)

The Traffic Management Act 2004 - s78; Civil Enforcement of Parking Contraventions (England) General Regulations 2007; Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007

PCN Number 1234567

Date of this Notice and date of posting **8th April 2008**

To: **J. T. Obscure, Troy Villas, Casterbridge**

This Notice has been served on you because it appears to the [name of enforcement authority] that you are the owner/hirer^{Note A} of :

Vehicle Registration No. X123ABC Make: Chrysler Colour: Pink^{Note B}

Tax disc: 0987654 Expiry: 02/08

and that the following parking contravention has occurred

Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge (code 40)

Date of Contravention: 1st April 2008

Location: Acacia Road

Time: 14:55

(Observed from: [...] to [...])

Pay & display details (if relevant): Ticket No: Expiry time:

This parking contravention has been recorded by an approved device (in this case *a camera and recording system*)^{Note C} and this is why this Notice has been served on you by post.

A penalty charge of £[60] is now payable and must be paid not later than the last day of the period of 28 days beginning with the date on which this notice is served. This Notice will be taken to have been served on the second working day after the day of posting (as shown above) unless you can show that it was not.

The penalty charge will be reduced by a discount of [50]% to £[30] if it is paid not later than the last day of the period of 21 days beginning on the date on which this Notice is served.

As this penalty charge has become payable because the parking contravention was recorded on an approved device you or your representative may make a written request to the [name of enforcement authority] to view the record produced by the approved device. This may be at any of the [name of enforcement authority]'s offices of your own choosing during normal office hours. Alternatively you may request the [name of enforcement authority] to provide you with such still images from that record which, in their opinion, establish the contravention).

NOTE: If you do not pay the penalty charge or make representations within the period specified above the Council may increase the original penalty charge by 50% and take steps to enforce payment.

SEE REVERSE FOR: How to Pay.

How to make representations about this Notice.

HOW TO PAY

- **By telephone** Credit / debit card payments only. Automated payment line **0123 345 6789** (24 hours/ 7 days a week). Have card and vehicle details and PCN number ready.
- **Online** at www.somewhere.gov.uk. Follow links from **online payments**
- **By post** using the payment slip below to: PO Box 1234, Somewhere. Allow 2 working days for 1st class post and 5 for 2nd class.
- **In person** at The Payments Office, Town Hall. Monday – Friday 9:00 – 16:30.

HOW TO MAKE REPRESENTATIONS IN RESPECT OF THIS NOTICE

If you believe that the penalty charge should not be paid you may make representations to the [name of enforcement authority/xyz district council who is acting as the agent for the enforcement authority]. Representations should be in writing and you may use this form. The representations may be made by:

Post at PO Box 1234, Somewhere;

FAX to 0123 456 7891;

E mail to parking@somewhere.gov.uk or

Online at www.somewhere.gov.uk/parking/XYZ

Representations which are made after the expiry of the 28 day period specified on the first page of this Penalty Charge Notice may be disregarded. This Notice will be taken to have been served on the second working day after the day of posting unless you can show that it was not. *For more information on this, please turn to the last page of this Notice.*^{Note D} If you submit your representations late, you should explain why.

The statutory grounds on which representations may be made are set out below together with an indication of the information which you should supply in support of your representations. It is important to provide all relevant information. Tick the relevant boxes and write your reasons in the box on the following page. This Notice **will** be cancelled if one or more of the specified grounds is established. This Notice **may** be cancelled for other compelling reasons even if none of the specified grounds apply. If the Notice is cancelled any sums already paid will be refunded.

If your representations are received in time or are received late but are taken into account, the [name of enforcement authority/ xyz district council who is acting as the agent for the enforcement authority] will let you know its decision in writing not later than the last day of the period of 56 days beginning with the date on which your representation was served on it. If it fails to do so, this Notice will be cancelled and any sums already paid will be refunded. If your representations are rejected, you have the right to appeal against that decision to an independent Adjudicator. An appeal form will be sent with the letter rejecting your representations. The form will explain how and when to appeal to the adjudicator.

The [name of enforcement authority's] policy^{Note E} about late representations, representations not covered by the statutory grounds and extension of the time for payment of the discounted penalty can be found on www.somewhere.gov.uk/NtO or in a leaflet available from the Council offices. *Further information about Civil Parking Enforcement (including PCNs and NtOs) is available online at www.patrol-uk.info or in a leaflet available from the enforcement authority.*^{Note F}

THE SPECIFIED GROUNDS ^{Note G}

The alleged contravention did not occur.

(Please explain why you believe no contravention took place)

I was never the owner of the vehicle in question/ or

I had ceased to be its owner before the date on which the alleged contravention occurred/ or

I became its owner after the date on which the alleged contravention occurred.

(If you bought or sold the vehicle, you **must** give the new or former owner's name and address if you have it. Please also provide the date of the transaction and any other details, and include copies of any documents such as an invoice or bill of sale)

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 consent of the owner.

(Tick this box if your vehicle was stolen or taken without your consent. Please provide any supporting information that you may have e.g. any crime reference or insurance claim reference).

We are a vehicle-hire firm and the vehicle was on hire under a hiring agreement and the hirer had signed a statement acknowledging liability for any PCN issued during the hiring period.

(The hiring agreement must be one which qualifies by containing prescribed particulars. You **must** supply the name and address of the hirer. Please also supply a copy of the signed agreement)

The penalty charge exceeded the amount applicable in the circumstances of the case.

(Tick this box if you think you are being asked to pay more than is required by law and explain why.)

There has been a procedural impropriety by the enforcement authority.

(Tick this box if you believe that the [*name of enforcement authority*] has failed to comply with any requirement imposed by the Traffic Management Act 2004, by the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 or by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulations.

Please set out the statutory requirement, time limit or other procedural step with which you believe that the Council has failed to comply.)

The Order which is alleged to have been contravened in relation to the vehicle concerned is invalid.

(Please explain why you believe that the Order in question is invalid. *Please note that this ground will not apply in respect of a provision in an Order to which Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 applies.* ^{Note D})

OTHER GROUNDS

If there are any other reasons why you consider the Council should cancel the penalty charge notice and refund any sum already paid please tick this box and set out those reasons in full in the box on the following page.

[Please turn to Page 4]

Write your representations here (use continuation sheets if necessary)

SPECIMEN

Name and address of buyer / seller / hirer of vehicle (if relevant)	
---	--

I confirm that my representations are true to the best of my knowledge. I realise that making a false statement may result in prosecution and a fine upon conviction of up to level 5 on the standard scale (currently £5,000).

Signature..... Date:.....

NAME (in capitals)

position in company (if relevant)

THE RULE RELATING TO SERVICE

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007: Regulation
3

“Service by post

3—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

- (a) may be served by first class (but not second class) post; and
- (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

- (a) a Saturday or a Sunday;
- (b) New Year’s Day;
- (c) Good Friday;
- (d) Christmas Day;
- (e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

- (a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and
- (b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.”

REGULATION 10 (1)(a)

PENALTY CHARGE

NOTICE:

B) GUIDANCE NOTES

SPECIMEN REGULATION 10 PCN (APPROVED DEVICE)

GUIDANCE NOTES

1. **Please note** that this Specimen Regulation 10 PCN dealing with the situation where the parking contravention is caught on an approved device is designed to indicate the information that is required by the Regulations to be included in a Notice served under regulation 10(1)(a) of the Civil Enforcement of Parking Contraventions (England) General Regulations and by good practice. The amount of information required by the regulations, and the way in which the regulations are worded, make this a relatively long and complicated document. There are also some apparent inconsistencies in the regulations. **It remains the responsibility of each authority independently to satisfy itself that the Notice to Owner that it adopts satisfies the statutory requirements.** This Specimen only applies to a PCN served under regulation 10(1)(a). A separate Specimen will be prepared dealing with regulation 10(1)(b) and (c) PCNs.
2. Authorities should also note the following.

THE STATUTORY REQUIREMENTS

3. **The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulation 10(1) (a)** provides
 - An enforcement authority may serve a penalty charge notice by post where, on the basis of a record produced by an approved device, the authority has reason to believe that a penalty charge is payable with respect to a vehicle which is stationary in a civil enforcement area;
 - Except in certain specified circumstances where a previous Notice has been cancelled a regulation 10 penalty charge notice may not be served later than the expiration of the period of 28 days beginning with the date on which, according to a record produced by an approved device, or information given by a civil enforcement officer, the contravention to which the penalty charge notice relates occurred
 - The current regulations regarding approved devices are, in England - The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 and, in Wales, the Civil Enforcement of Parking Contraventions (Approved Devices) (Wales) Order 2008

4. **The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Schedule** provides that the contents of a regulation 10 PCN shall include :in addition to the matters required to be included in it by regulation 3(4) of the Representations and Appeals Regulations, the following:

- the date of the notice, which must be the date on which it is posted;
- the name of the enforcement authority;
- the registration mark of the vehicle involved in the alleged contravention;
- the date and the time at which the alleged contravention occurred;
- the amount of the penalty charge;
- the manner in which the penalty charge must be paid
- the grounds on which the enforcement authority believes that a penalty charge is payable;
- 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 is served;
- that if the penalty charge is paid not later than the applicable date (ie the last day of the period of 21 days beginning with the date on which the notice was served), the penalty charge will be reduced by the amount of any applicable discount;
- that if after the last day of the period referred to above
 - (i) no representations have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and
 - (ii) the penalty charge has not been paid,the enforcement authority may increase the penalty charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increased;
- the amount of the increased penalty charge; and

- that the penalty charge notice is being served by post on the basis of a record produced by an approved device;

5. The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 : Regulation 3 provides that a penalty charge notice served

under regulation 10 of the General Regulations must, in addition to the matters required to be included in it under paragraph 2 of the Schedule to those Regulations, include the following information:

- that representations on the basis specified in regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days beginning with the date on which the penalty charge notice is served (“the representations period”) may be disregarded;
- the nature of the representations which may be made under regulation 4;
- the address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made;
- that if representations which have been made either within the representations period; or outside that period but not disregarded, are not accepted by the enforcement authority the recipient of the penalty charge notice may appeal against the authority’s decision to an adjudicator;
- in general terms, the form and manner in which an appeal may be made
- where the penalty charge notice is served by virtue of regulation 10(1)(a) of the General Regulations (evidence produced by an approved device), that.
 - the recipient of a penalty charge notice served by virtue of regulation 10(1)(a) of the General Regulations may, by notice in writing to the enforcement authority, request it to make available at one of its offices specified by him, free of charge and at a time during normal office hours so specified, for viewing by him or by his representative, the record of the contravention produced by the approved device pursuant to which the penalty charge was imposed; or to provide him, free of charge, with such

still images from that record as, in the authority's opinion, establish the contravention.

- where the recipient of the penalty charge notice makes a request under paragraph (5), the enforcement authority shall comply with the request within a reasonable time.

6. The specified grounds of appeal are:

- (a) that the alleged contravention did not occur;
- (b) that the recipient
 - i. never was the owner of the vehicle in question;
 - ii. had ceased to be its owner before the date on which the alleged contravention occurred; or
 - iii. became its owner after that date;
- (c) that 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 consent of the owner;
- (d) that the recipient is a vehicle-hire firm and—
 - i. the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - ii. the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement;
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
- (f) that there has been a procedural impropriety on the part of the enforcement authority;
- (g) that the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part VI of Schedule 9 to the 1984 Act applies, is invalid;

- (h) *in a case where a penalty charge notice was served by post on the basis that a civil enforcement officer was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no civil enforcement officer was so prevented;*¹
- (i) that the notice to owner should not have been served because—
- i. the penalty charge had already been paid in full;
 - ii. the penalty charge had been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified in paragraph 1(h) of the Schedule to the General Regulations.

N.B. in relation to grounds (b) and (d) above the regulations require that specific information is provided about the name of the former or present owner and/or hirer of the vehicle.

7. The Secretary of State's Guidance recommends that a PCN should also include

- vehicle make and colour (if evident);
- detailed location of vehicle (full street name);
- the contravention code;
- observation start and finish times;
- PCN number (all PCNs should be uniquely identifiable);
- CEO's identification number; and
- the vehicle's tax disc number and expiry date;

It is also recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN.

8. Enforcement Authorities

In the areas of non metropolitan district councils where district councils may be acting as agent for the county council in relation to some parking contraventions and acting on its own behalf in relation to others care will have to be taken to identify the correct enforcement authority on the PCN.

¹ This ground will not apply to a PCN served under reg. 10(1)(a).

9. Dates and Service

The regulations require that the PCN should be dated and that this should be the date of posting. It will be essential, therefore, that the PCN is actually posted on that date and that Councils should have clear and reliable systems recording the fact and date of postage. However, the time for making representations runs from the date of service of the PCN. It is not a statutory requirement that the date of service be included on the PCN and bearing in mind the rules relating to when service will be deemed to have been served this would prove to be difficult, if not impossible, to include in a computer generated notice. It is, however, considered to be necessary to provide an indication to the Owner as to when the period in which representations may be made will begin. This follows from the logic of the *Barnet* decision.

Regulation 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 contains the rules as to service by post. These are set out below:

“Service by post

3.(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

(a) may be served by first class (but not second class) post; and

(b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

a) a Saturday or a Sunday;

b) New Year’s Day;

c) Good Friday;

d) Christmas Day;

e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and

b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.”

It can be seen, therefore, that the specimen PCN does not include all of this information and, in particular, it does not address the situation of car hire firms who have agreed to have information submitted electronically. To do so would make the PCN even longer and make it more difficult for the ordinary motorist to understand. Authorities may, however, consider it sensible to attach to the PCN a copy of Regulation 3 with a note on the PCN itself cross referring to the regulation. This Specimen, therefore, contains this as an option.

Alternatively, authorities may wish to include a reference to the fact that the rules relating to service are to be found in regulation 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

Please also note that these PCNs must be sent by First Class post in order to rely on the rule relating to service.

10. Inconsistencies in the regulations

The regulations contain contradictory information as to when a representation may be disregarded as being submitted out of time. Regulation 3(4) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 requires that the PCN states that the representations which have not been “made” within the specified time period may be disregarded. However, regulation 5 states that an authority may only disregard any representations “received” after the specified time. This difference cannot be reconciled on the PCN itself without creating total confusion. Authorities should take their own legal advice as to deal with this inconsistency. It is suggested that all authorities could adopt a policy (which is made available to the public) that they will not disregard

representations received after the expiry of the time limit where evidence (for example a postmark) indicates that the representations were made within that period. An entry referring to such a policy has been included in the Specimen. However, if any authority intends to disregard representations made within the required period but received after the expiry of the period then the use of the word “received” on the PCN would avoid misleading the Owner even though this is not in strict compliance with the regulations.

11. Other matters

- (a) Regulation 14 states that a person who makes any representation under Part 2 or 3 of these Regulations which is false in a material particular, and does so recklessly or knowing it to be false, is guilty of an offence. Whilst there is no requirement to state this on the NtO it is considered best practice to do so.
- (b) Please note that the Statutory Ground which refers to the circumstances where a Notice has been served by post does not apply to regulation 10(1)(a) PCNs. It has, therefore, been omitted from this Specimen.

12. There are a number of specific notes to the attached Specimen namely:

Note A

If the PCN is being served on a person who has been identified as the hirer of the vehicle and who is to be treated as the owner for the purposes of Regulation 5(3) of the General regulations, instead of the words “you are the owner” the words “were the hirer” will be more appropriate.

Note B

Inclusion of the colour of the vehicle is not a statutory requirement although the Secretary of State’s Statutory Guidance recommends inclusion of the colour of a vehicle in the PCN.

Note C

Reference needs to be made to the The Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007 and the Civil Enforcement of Parking Contraventions (Approved Devices) (Wales) Order 2008

Note D

It is recommended that there should be a reference to the date of service. As the rules regarding service are complicated it may be considered desirable to attach a copy of Regulation 3 at the end of the PCN.

Notes E and F

Enforcement authorities are encouraged to have a published policy as to the sorts of circumstances in which it would be prepared to consider other reasons for cancelling the notice and/or the circumstances in which it would be prepared to accept late representations. It is recommended that the NtO refers the Owner to where that policy can be viewed. The policy should always allow for exceptional circumstances. The policy may also address the circumstances in which an authority will extend the time for the discounted payment.

Note G

The Statutory Grounds which refer to the circumstances where a Notice has been served by post and where payment or part payment of the penalty has already been made will not apply to regulation 10(1)(a) PCNs. They have, therefore, been omitted from this Specimen.

The reference to Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 is not required to be stated in the NtO. However, as the regulations make express reference to Part VI of the 1984 Act enforcement authorities may wish to point the Owner to the existence of this exclusion.

**REGULATION 10
PENALTY CHARGE
NOTICE:**

**C) SPECIMEN
Regulation 10 (1)(b), (c)**

(NAME OF ENFORCEMENT AUTHORITY)

PENALTY CHARGE NOTICE (PCN)

The Traffic Management Act 2004 - s78; Civil Enforcement of Parking Contraventions (England)
General Regulations 2007; Civil Enforcement of Parking Contraventions (England)
Representations and Appeals Regulations 2007

PCN Number 1234567

Date of this Notice and date of posting 8th April 2008

To: J. T. Obscure, Troy Villas, Casterbridge

This Notice has been served on you because it appears to the [name of enforcement authority] that you are the owner/hirer^{Note A} of :

Vehicle Registration No. X123ABC Make: Chrysler Colour: Pink^{Note B}

Tax disc: 0987654 Expiry: 02/08

and that the following parking contravention has occurred

Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge (code 40)

Date of Contravention: 1st April 2008

Location: Acacia Road

Time: 14:55

(Observed from: [..] to [..])

Pay & display details (if relevant): Ticket No: Expiry time:

This Notice has been served by post because Civil Enforcement Officer (CEO) X987 who had reason to believe that the above parking contravention had occurred and (*delete as appropriate*)
(a) attempted to serve a Penalty Charge Notice by affixing it to the vehicle or giving it to the person in charge of the vehicle but was prevented from doing so by some person or
(b) had begun to prepare a penalty charge notice for service but the vehicle was driven away from the place in which it was stationary before the Civil Enforcement Officer had finished preparing the penalty charge notice and was unable to serve it by affixing it to the vehicle or giving it to the person in charge of the vehicle

A penalty charge of £[60] is now payable and must be paid not later than the last day of the period of 28 days beginning with the date on which this notice is served. This Notice will be taken to have been served on the second working day after the day of posting (as shown above) unless you can show that it was not.

The penalty charge will be reduced by a discount of [50]% to £[30] if it is paid not later than the last day of the period of 14 days beginning on the date on which this Notice is served.

NOTE: If you do not pay the penalty charge or make representations within the period specified above the Council may increase the original penalty charge by 50% and take steps to enforce payment.

SEE REVERSE FOR: How to Pay.

How to make representations about this Notice.

HOW TO PAY

- **By telephone** Credit / debit card payments only. Automated payment line **0123 345 6789** (24 hours/ 7 days a week). Have card and vehicle details and PCN number ready.
- **Online** at www.somewhere.gov.uk. Follow links from **online payments**
- **By post** using the payment slip below to: PO Box 1234, Somewhere. Allow 2 working days for 1st class post and 5 for 2nd class.
- **In person** at The Payments Office, Town Hall. Monday – Friday 9:00 – 16:30.

HOW TO MAKE REPRESENTATIONS IN RESPECT OF THIS NOTICE

If you believe that the penalty charge should not be paid you may make representations to the [*name of enforcement authority/xyz district council who is acting as the agent for the enforcement authority*]. Representations should be in writing and you may use the attached form. The representations may be made by:

Post to PO Box 1234, Somewhere;

FAX to 0123 456 7891;

E mail to parking@somewhere.gov.uk or

Online at www.somewhere.gov.uk/parking/XYZ

Representations which are made after the expiry of the 28 day period specified on the first page of this Penalty Charge Notice may be disregarded. This Notice will be taken to have been served on the second working day after the day of posting unless you can show that it was not. *For more information on this, please turn to the last page of this Notice.*^{Note C} If you submit your representations late, you should explain why.

The statutory grounds on which representations may be made are set out below together with an indication of the information which you should supply in support of your representations. It is important to provide all relevant information. Tick the relevant boxes and write your reasons in the box on the following page. This Notice **will** be cancelled if one or more of the specified grounds is established. This Notice **may** be cancelled for other compelling reasons even if none of the specified grounds apply. If the Notice is cancelled any sums already paid will be refunded.

If your representations are received in time or are received late but are taken into account, the [*name of enforcement authority/ xyz district council who is acting as the agent for the enforcement authority*] will let you know its decision in writing not later than the last day of the period of 56 days beginning with the date on which your representation was served on it. If it fails to do so, this Notice will be cancelled and any sums already paid will be refunded. If your representations are rejected, you have the right to appeal against that decision to an independent Adjudicator. An appeal form will be sent with the letter rejecting your representations. The form will explain how and when to appeal to the adjudicator.

The [*name of enforcement authority's*] policy^{Note D} about late representations, representations not covered by the statutory grounds and extension of the time for payment of the discounted penalty can be found on www.somewhere.gov.uk/NtO or in a leaflet available from the Council offices. *Further information about Civil Parking Enforcement (including PCNs and NtOs) is available online at www.patrol-uk.info or in a leaflet available from the enforcement authority.*

THE SPECIFIED GROUNDS ^{Note E}

- The alleged contravention did not occur.**
(Please explain why you believe no contravention took place)

- I was never the owner of the vehicle in question/ or**
- I had ceased to be its owner before the date on which the alleged contravention occurred/ or**
- I became its owner after the date on which the alleged contravention occurred.**
(If you bought or sold the vehicle, you **must** give the new or former owner's name and address if you have it. Please also provide the date of the transaction and any other details, and include copies of any documents such as an invoice or bill of sale)

- 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 consent of the owner.**
(Tick this box if your vehicle was stolen or taken without your consent. Please provide any supporting information that you may have e.g. any crime reference or insurance claim reference).

- We are a vehicle-hire firm and the vehicle was on hire under a hiring agreement and the hirer had signed a statement acknowledging liability for any PCN issued during the hiring period.**
(The hiring agreement must be one which qualifies by containing prescribed particulars. You **must** supply the name and address of the hirer. Please also supply a copy of the signed agreement)

- The penalty charge exceeded the amount applicable in the circumstances of the case.**
(Tick this box if you think you are being asked to pay more than is required by law and explain why.)

- There has been a procedural impropriety by the enforcement authority.**
(Tick this box if you believe that the [*name of enforcement authority*] has failed to comply with any requirement imposed by the Traffic Management Act 2004, by the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 or by the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulations.
Please set out the statutory requirement, time limit or other procedural step with which you believe that the Council has failed to comply.)

- The Order which is alleged to have been contravened in relation to the vehicle concerned is invalid.**
(Please explain why you believe that the Order in question is invalid. *Please note that this ground will not apply in respect of a provision in an Order to which Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 applies.* ^{Note D})

- The Civil Enforcement Officer was not prevented by some person from fixing the PCN to the vehicle concerned or handing it to the person in charge of the vehicle.**
(Tick this box only if you received the penalty charge notice through the post because the civil enforcement officer could not issue it at the scene of the contravention because he was prevented from doing so)

OTHER GROUNDS

- If there are any other reasons why you consider the Council should cancel the penalty charge notice and refund any sum already paid please tick this box and set out those reasons in full in the box on the following page.**
[Please turn to Page 4]

Write your representations here (use continuation sheets if necessary)

Write your representations here (use continuation sheets if necessary)	
Name and address of buyer / seller / hirer of vehicle (if relevant)	

I confirm that my representations are true to the best of my knowledge. I realise that making a false statement may result in prosecution and a fine upon conviction of up to level 5 on the standard scale (currently £5,000).

Signature..... Date:.....
NAME (in capitals) position in company (if relevant)

THE RULE RELATING TO SERVICE

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007: Regulation

3

“Service by post

3—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

- (a) may be served by first class (but not second class) post; and
- (b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

- (a) a Saturday or a Sunday;
- (b) New Year’s Day;
- (c) Good Friday;
- (d) Christmas Day;
- (e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

- (a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and
- (b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.”

**REGULATION 10(1) (b),
(c)PENALTY CHARGE**

NOTICE:

D) GUIDANCE NOTES

SPECIMEN REGULATION 10 PCN (PREVENTION OF SERVICE)

GUIDANCE NOTES

1. **Please note** that this Specimen Regulation 10 PCN is dealing with the situation where parking attendant was unable to serve the PCN by affixing it to the vehicle or giving it to the person appearing to be in charge of the vehicle. The specimen is designed to indicate the information that is required by the Regulations to be included in a Notice served under regulation 10(1)(b) and (c) of the Civil Enforcement of Parking Contraventions (England) General Regulations and by good practice. The amount of information required by the regulations, and the way in which the regulations are worded, make this a relatively long and complicated document. There are also some apparent inconsistencies in the regulations. **It remains the responsibility of each authority independently to satisfy itself that the Notice to Owner that it adopts satisfies the statutory requirements.** This Specimen only applies to a PCN served under regulation 10(1)(b) and (c).
2. Authorities should also note the following.

THE STATUTORY REQUIREMENTS

3. The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 Regulation 10(1) (b) and (c) provide that an enforcement authority may serve a penalty charge notice by post where
 - (a) a civil enforcement officer attempted to serve a penalty charge notice in accordance with regulation 9 but was prevented from doing so by some person; or
 - (b) a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle concerned was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9,
4. A regulation 10 penalty charge notice must be served on the person appearing to the enforcement authority to be the owner of the vehicle involved in the contravention in consequence of which the penalty charge is payable.
5. Except in certain specified circumstances a regulation 10(1)(b) or (c) penalty charge notice may not be served later than the expiration of the period of 28 days beginning with the date on which, beginning with the date on which, according to information given by a civil enforcement officer, the contravention to which the penalty charge notice relates

occurred. The specified circumstances are where a previous Notice has been cancelled a regulation or where the enforcement authority has, within 14 days of the appropriate date, requested the Secretary of State to supply the relevant particulars in respect of the vehicle involved in the contravention and those particulars have not been supplied before the expiration of the 28-day period. In these cases separate time limits apply – see reg. 10(6).

6. The Civil Enforcement of Parking Contraventions (England) General Regulations

2007 Schedule provides that the contents of a regulation 10(1)(b) or (c) PCN shall include, in addition to the matters required to be included in it by regulation 3(4) of the Representations and Appeals Regulations, the following:

- the date of the notice, which must be the date on which it is posted;
- the name of the enforcement authority;
- the registration mark of the vehicle involved in the alleged contravention;
- the date and the time at which the alleged contravention occurred;
- the amount of the penalty charge;
- the manner in which the penalty charge must be paid
- the grounds on which the enforcement authority believes that a penalty charge is payable;
- 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 is served;
- that if the penalty charge is paid not later than the applicable date (ie the last day of the period of 14 days beginning with the date on which the notice was served), the penalty charge will be reduced by the amount of any applicable discount;
- that if after the last day of the period referred to above
 - (i) no representations have been made in accordance with regulation 4 of the Representations and Appeals Regulations; and
 - (ii) the penalty charge has not been paid,

the enforcement authority may increase the penalty charge by the amount of any applicable surcharge and take steps to enforce payment of the charge as so increased;

- the amount of the increased penalty charge; and
- that the penalty charge notice is being served by post because either a civil enforcement officer attempted to serve a penalty charge notice but was prevented from doing so by some person or because a civil enforcement officer had begun to prepare a penalty charge notice for service in accordance with regulation 9, but the vehicle was driven away from the place in which it was stationary before the civil enforcement officer had finished preparing the penalty charge notice or had served it in accordance with regulation 9.

7. The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 : Regulation 3 provides that a penalty charge notice served under regulation 10(1)(b) or (c) of the General Regulations must, in addition to the matters required to be included in it under paragraph 2 of the Schedule to those Regulations, include the following information:

- that representations on the basis specified in regulation 4 may be made to the enforcement authority against the imposition of the penalty charge but that representations made outside the period of 28 days beginning with the date on which the penalty charge notice is served (“the representations period”) may be disregarded;
- the nature of the representations which may be made under regulation 4;
- the address (including if appropriate any email address or FAX telephone number, as well as the postal address) to which representations must be sent and the form in which they must be made;
- that if representations which have been made either within the representations period; or outside that period but not disregarded, are not accepted by the enforcement authority the recipient of the penalty charge notice may appeal against the authority’s decision to an adjudicator;

8. The specified grounds on which representations may be made are:

- (a) that the alleged contravention did not occur;
- (b) that the recipient
 - i. never was the owner of the vehicle in question;
 - ii. had ceased to be its owner before the date on which the alleged contravention occurred; or
 - iii. became its owner after that date;
- (c) that 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 consent of the owner;
- (d) that the recipient is a vehicle-hire firm and—
 - i. the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - ii. the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement;
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case;
- (f) that there has been a procedural impropriety on the part of the enforcement authority;
- (g) that the order which is alleged to have been contravened in relation to the vehicle concerned, except where it is an order to which Part VI of Schedule 9 to the 1984 Act applies, is invalid;
- (h) in a case where a penalty charge notice was served by post on the basis that a civil enforcement officer was prevented by some person from fixing it to the vehicle concerned or handing it to the owner or person in charge of the vehicle, that no civil enforcement officer was so prevented;
- (i) that the notice to owner should not have been served because¹—
 - i. the penalty charge had already been paid in full;

¹ This ground will not apply to a regulation 10 PCN.

- ii. the penalty charge had been paid, reduced by the amount of any discount set in accordance with Schedule 9 to the 2004 Act, within the period specified in paragraph 1(h) of the Schedule to the General Regulations.
- (j) Or that there compelling reasons why, in the particular circumstances of the case, the enforcement authority should cancel the penalty charge and refund any sum paid to it on account of the penalty charge

N.B. in relation to grounds (b) and (d) above the regulations require that specific information is provided about the name of the former or present owner and/or hirer of the vehicle.

9. The Secretary of State's Guidance recommends that a PCN should also include

- vehicle make and colour (if evident);
- detailed location of vehicle (full street name);
- the contravention code;
- observation start and finish times;
- PCN number (all PCNs should be uniquely identifiable);
- CEO's identification number; and
- the vehicle's tax disc number and expiry date;

It is also recommended that the authority sends a copy of the record of the contravention (in the form of a still image or images) with the PCN.

10. Enforcement Authorities

In the areas of non metropolitan district councils where district councils may be acting as agent for the county council in relation to some parking contraventions and acting on its own behalf in relation to others care will have to be taken to identify the correct enforcement authority on the PCN.

11. Dates and Service

The regulations require that the PCN should be dated and that this should be the date of posting. It will be essential, therefore, that the PCN is actually posted on that date and that Councils should have clear and reliable systems recording the fact and date of postage. However, the time for making representations runs from the date of service of the PCN. It is not a statutory requirement that the date of service be included on the PCN and bearing in

mind the rules relating to when service will be deemed to have been served this would prove to be difficult, if not impossible, to include in a computer generated notice. It is, however, considered to be necessary to provide an indication to the Owner as to when the period in which representations may be made will begin. This follows from the logic of the *Barnet* decision.

Regulation 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007 contains the rules as to service by post. These are set out below:

“Service by post

3.(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

(a) may be served by first class (but not second class) post; and

(b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

a) a Saturday or a Sunday;

b) New Year’s Day;

c) Good Friday;

d) Christmas Day;

e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and

b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court.”

It can be seen, therefore, that the specimen PCN does not include all of this information and, in particular, it does not address the situation of car hire firms who have agreed to have information submitted electronically. To do so would make the PCN even longer and make it more difficult for the ordinary motorist to understand. Authorities may, however, consider it sensible to attach to the PCN a copy of Regulation 3 with a note on the PCN itself cross referring to the regulation. This Specimen, therefore, contains this as an option.

Alternatively, authorities may wish to include a reference to the fact that the rules relating to service are to be found in regulation 3 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

Please also note that these PCNs must be sent by First Class post in order to rely on the rule relating to service.

12. Inconsistencies in the regulations

The regulations contain contradictory information as to when a representation may be disregarded as being submitted out of time. Regulation 3(4) of the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 requires that the PCN states that the representations which have not been “made” within the specified time period may be disregarded. However, regulation 5 states that an authority may only disregard any representations “received” after the specified time. This difference cannot be reconciled on the PCN itself without creating total confusion. Authorities should take their own legal advice as to deal with this inconsistency. It is suggested that all authorities could adopt a policy (which is made available to the public) that they will not disregard representations received after the expiry of the time limit where evidence (for example a postmark) indicates that the representations were made within that period. An entry referring to such a policy has been included in the Specimen. However, if any authority intends to disregard representations made within the required period but received after the expiry of the period then the use of the word “received” on the PCN would avoid misleading the Owner even though this is not in strict compliance with the regulations.

12. Other matters

Regulation 14 states that a person who makes any representation under Part 2 or 3 of these Regulations which is false in a material particular, and does so recklessly or knowing it to be false, is guilty of an offence. Whilst there is no requirement to state this on the NtO it is considered best practice to do so.

Please note that the Statutory Ground which refers to the circumstances where a Notice has been served by post does not apply to regulation 10(1)(a) PCNs. It has, therefore, been omitted from this Specimen.

13. There are a number of specific notes to the attached Specimen namely:

Note A

If the PCN is being served on a person who has been identified as the hirer of the vehicle and who is to be treated as the owner for the purposes of Regulation 5(3) of the General regulations, instead of the words “you are the owner” the words “were the hirer” will be more appropriate.

Note B

Inclusion of the colour of the vehicle is not a statutory requirement although the Secretary of State’s Statutory Guidance recommends inclusion of the colour of a vehicle in the PCN.

Note C

It is recommended that there should be a reference to the date of service. As the rules regarding service are complicated it may be considered desirable to attach a copy of Regulation 3 at the end of the PCN.

Note D

Enforcement authorities are encouraged to have a published policy as to the sorts of circumstances in which it would be prepared to consider other reasons for cancelling the notice and/or the circumstances in which it would be prepared to accept late representations. It is recommended that the NtO refers the Owner to where that policy can be viewed. The policy should always allow for exceptional circumstances. The policy may also address the circumstances in which an authority will extend the time for the discounted payment.

Note E

The Statutory Grounds which refer to the circumstances where a Notice has been served by post and where payment or part payment of the penalty has already been made will not apply to regulation 10(1)(a) PCNs. They have, therefore, been omitted from this Specimen.

The reference to Part VI of Schedule 9 to the Road Traffic Regulation Act 1984 is not required to be stated in the NtO. However, as the regulations make express reference to Part VI of the 1984 Act enforcement authorities may wish to point the Owner to the existence of this exclusion.

**NOTICE OF
REJECTION:**

A) SPECIMEN

(NAME OF ENFORCEMENT AUTHORITY)

NOTICE OF REJECTION OF REPRESENTATIONS

The Traffic Management Act 2004 - s78; Civil Enforcement of Parking Contraventions
(England) General Regulations 2007; Civil Enforcement of Parking Contraventions
(England) Representations and Appeals Regulations 2007

Date of this Notice 28th April 2008

To: J. T. Obscure, Troy Villas, Casterbridge

Vehicle Registration No. X123ABC	Make: Chrysler	Colour Pink ^{Note A}
Tax disc: 0987654	Expiry: 02/08	
PCN Number 1234567	Served 1 st April 2008	
Parking contravention		

Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge (code 40)

Date of Contravention: 1st April 2008 **Location:** Acacia Road

Time: 14:55

(Observed from: [...] to [...])

Pay & display details (if relevant): **Ticket No:** **Expiry time:**

The representations that you made in respect of the Notice to Owner/Penalty Charge Notice dated 30th April 2008 which was served on you in respect of the above parking contravention have been considered by the [name of enforcement authority] and have been rejected for the following reasons.

[Insert reasons]^{Note B}

The penalty charge of £ [...] is now payable. This must be paid before the end of 28 days beginning with the date of service of this Notice.

However, the [name of enforcement authority] will accept payment of [£..] if it is made before the end of 14 days beginning with the date of this notice.^{Note C}

You must now decide whether to **PAY** the penalty charge or whether to **APPEAL**

NOTE: If you do not appeal and do not pay the penalty charge within the period set above the [name of enforcement authority] may serve a charge certificate on you increasing the penalty by [...]%

SEE BELOW FOR: HOW TO PAY HOW TO APPEAL

HOW TO PAY

- **By telephone** Credit / debit card payments only. Automated payment line **0123 345 6789** (24 hours/ 7 days a week). Have card and vehicle details and PCN number ready.
- **Online** at www.somewhere.gov.uk. Follow links from **online payments**
- **By post** using the payment slip below to: PO Box 1234, Somewhere. Allow 2 working days for 1st class post and 5 for 2nd class.
- **In person** at The Payments Office, Town Hall. Monday – Friday 9:00 – 16:30.

HOW TO APPEAL

You may appeal against this decision to an independent Adjudicator.

Time for Appeal

Any appeal must be made before the end of the period of 28 days beginning with the date of service of this notice but the Adjudicator may decide to allow you a longer period – see below.

Form of Appeal

A notice of appeal—

- (a) must be in writing signed by you or by someone who you have authorised to sign on your behalf;
- (b) must state your name and address or some other address to which you want documents to be sent to you in connection with the appeal;
- (c) must state the date and any reference number of the disputed decision and the name of the enforcement authority; and
- (d) may include any representations which you want to make in addition to the original representations.

If the notice of appeal is sent after the end of the 28 day period specified above you must provide a statement setting out the reasons for the delay. The Adjudicator will then treat that statement of reasons for delay as a request to extend the time limit.

The form for making an appeal is attached to this Notice.

Costs

The Adjudicator will not normally make an order awarding costs and expenses to either an appellant or to an enforcement authority but **may** do so where the Adjudicator is of the opinion that one of those parties to the appeal has acted frivolously or vexatiously or that the conduct in making, pursuing or resisting an appeal was wholly unreasonable.

No order for costs would be made without giving the affected party an opportunity of making representations against the making of the order.

**NOTICE OF
REJECTION:**

B) GUIDANCE NOTES

SPECIMEN NOTICE OF REJECTION OF REPRESENTATIONS

GUIDANCE NOTES

1. **Please note** that this Specimen Notice of Rejection is designed to indicate what information is required by the Regulations to be included in a Notice of Rejection served in accordance with regulations 5 and 6 of the Civil Enforcement of Parking Contraventions (England) (Representations and Appeals) Regulations 2007 and by good practice. **It remains the responsibility of each authority independently to satisfy itself that the Notice of Rejection that it adopts satisfies the statutory requirements.**
2. **Regulation 6** requires the Notice of Rejection to
 - (a) state that a charge certificate may be served unless before the end of the period of 28 days beginning with the date of service of the notice of rejection the penalty charge is paid or the person on whom the notice is served appeals to an adjudicator against the penalty charge;
 - (b) indicate the nature of an adjudicator's power to award costs; and
 - (c) describe in general terms the form and manner in which an appeal to an adjudicator must be made;
 - (d) provide such other information as the enforcement authority considers appropriate.
3. **The Secretary of State's Guidance** additionally indicates that the Notice should;
 - (a) Tell the person making the representation (usually the owner of the vehicle) what the authority has decided to do and why.
 - (b) If the person making the representation is not the owner (but is acting officially on their behalf) then the owner should be informed, where possible, of the decision.
 - (c) The authority should give the owner clear and full reasons for its decision on a representation, in addition to the minimum required information.
 - (d) If, following an unsuccessful representation, an authority decides to offer a new discount period for prompt payment, it should set out the dates of this period in the Notice of Rejection.

4. Whilst it is understood that authorities may prefer a letter style of Notice of Rejection there does seem to be merit in ensuring that there is consistency as to the amount of information relating to the original PCN provided in each of the statutory documents. The inclusion of a box containing that information, therefore, may be a useful way of providing that consistency.
5. The reasons given for rejecting the representations must deal with the statutory grounds that have been raised and, where appropriate, the authority's decision as to why other compelling reasons have not been accepted.
6. **Notes:**
 - (a) Note A – the information set out in the Notice of Rejection should contain the same level of information about the vehicle etc. as was contained in the original PCN and/or NTO.
 - (b) Note B –clear and full reasons should be given for the decision to reject.
 - (c) Note C – there is no requirement to offer a further discount but if an authority does do so then it should be stated on this Notice.

**CHARGE
CERTIFICATE:**

A) SPECIMEN

(NAME OF ENFORCEMENT AUTHORITY)

CHARGE CERTIFICATE

Traffic Management Act 2004; Civil Enforcement of Parking Contraventions (England) General Regulations 2007;
Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007; Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) Order 2007

PLEASE NOTE: This Certificate has been issued to you because payment of the penalty charge in respect of the parking contravention identified below has not been received. You are now required to pay an increased penalty charge as is explained below.

Date of this Certificate and Date of Posting 28th June 2008

To: J. T. Obscure, Troy Villas, Casterbridge

On [.....] a Notice to Owner/Penalty Charge Notice A was served on you as the person appearing to be the owner or hirer of

Vehicle Registration No. X123ABC **Make:** Chrysler **Colour** Pink **Note B**

Tax disc: 0987654 **Expiry:** 02/08

in respect of the following parking contravention

Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge (code 40)

Date of Contravention: 1st April 2008 **Location:** Acacia Road

Time: 14:55

Penalty Charge Notice No. 12345

The penalty charge in respect of this parking contravention was [£..]. To date [£..] has been received. [£..] is outstanding.

As the penalty charge has not been paid within the relevant period the penalty charge in question is now increased by [50%] to £[.].

PLEASE NOTE: If this increased penalty charge is not paid before the end of the period of 14 days beginning with the date on which this certificate is served, the enforcement authority may, if a county court so orders, recover this increased charge as if it were payable under a county court order.

This Certificate will be taken to have been served on the second working day after the day of posting unless you can show that it was not. *For more information on this, please turn to the reverse page of this Certificate.* Note C

HOW TO PAY

- **By telephone** Credit / debit card payments only. Automated payment line 0123 345 6789 (24 hours/ 7 days a week). Have card and vehicle details and PCN number ready.
- **Online** at www.somewhere.gov.uk. Follow links from **online payments**
- **By post** using the payment slip below to: PO Box 1234, Somewhere. Allow 2 working days for 1st class post and 5 for 2nd class.
- **In person** at The Payments Office, Town Hall. Monday – Friday 9:00 – 16:30.

See Reverse for further information

THE RELEVANT PERIOD

- (1) The relevant period within which the penalty charge should have been paid is the period of 28 days beginning -
 - (a) where no representations have been made under regulation 4 of the Representations and Appeals Regulations, with the date on which the notice to owner is served;
 - (b) where –
 - (i) such representations have been made;
 - (ii) a notice of rejection was served by the authority concerned; and
 - (iii) no appeal against the notice of rejection was made, with the date on which the notice of rejection is served;
 - (c) where an adjudicator has, under regulation 7(4) of the Representations and Appeals Regulations, recommended the enforcement authority to cancel the notice to owner, with the date on which the enforcement authority notified the appellant under regulation 7(5) of those Regulations that it does not accept the recommendation; or
 - (d) in a case not falling within subparagraph (c) above where there has been an unsuccessful appeal to an adjudicator under the Representations and Appeals Regulations against a notice of rejection, with the date on which notice of the adjudicator's decision was served on the appellant.
- (2) Where an appeal against a notice of rejection was made but was withdrawn before the adjudicator served notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal was withdrawn.

THE RULE RELATING TO SERVICE Note C

The Civil Enforcement of Parking Contraventions (England) General Regulations 2007: Regulation 3 states:

“Service by post

3—(1) Subject to paragraph (5), any notice (except a penalty charge notice served under regulation 9) or charge certificate under these Regulations —

(a) may be served by first class (but not second class) post; and

(b) where the person on whom it is to be served is a body corporate, is duly served if it is sent by first class post to the secretary or clerk of that body.

(2) Service of a notice or charge certificate contained in a letter sent by first class post which has been properly addressed, pre-paid and posted shall, unless the contrary is proved, be taken to have been effected on the second working day after the day of posting.

(3) In paragraph (2), “working day” means any day except—

(a) a Saturday or a Sunday;

(b) New Year’s Day;

(c) Good Friday;

(d) Christmas Day;

(e) any other day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

(4) A document may be transmitted to a vehicle hire firm (as defined in regulation 5(4)) by a means of electronic data transmission where—

(a) the vehicle hire firm has indicated in writing to the person sending the notice or document that it is willing to regard a document as having been duly sent to it if it is transmitted to a specified electronic address; and

(b) the document is transmitted to that address.

(5) Nothing in this regulation applies to the service of any notice or order made by a county court”

**CHARGE
CERTIFICATE:**

B) GUIDANCE NOTES

SPECIMEN CHARGE CERTIFICATE

GUIDANCE NOTES

1. **Please note** that this specimen Charge Certificate is designed to indicate what information is required by the Regulations to be included in a Charge Certificate and by good practice. **It remains the responsibility of each authority independently to satisfy itself that the Certificate that it adopts satisfies the statutory requirements.** Authorities should also note the following.
2. There is set out below the various requirements as to the circumstances in which a Charge Certificate may be served and as to its contents.

Civil Enforcement of Parking Contraventions (England) General Regulations 2007

Reg. 21

A charge certificate may be served where a notice to owner (which term includes a regulation PCN) is served on any person and the penalty charge to which it relates is not paid before the end of the relevant period

The charge certificate is a statement to the effect that the penalty charge in question is increased by the amount of the applicable surcharge.

The relevant period, in relation to a notice to owner, is the period of 28 days beginning—

- (a) where no representations are made under regulation 4 of the Representations and Appeals Regulations, with the date on which the notice to owner is served;
- (b) where—
 - i. such representations are made;
 - ii. a notice of rejection is served by the authority concerned; and
 - iii. no appeal against the notice of rejection is made,with the date on which the notice of rejection is served;
- (c) where an adjudicator has, under regulation 7(4) of the Representations and Appeals Regulations, recommended the enforcement authority to cancel the notice to

owner, with the date on which the enforcement authority notifies the appellant under regulation 7(5) of those Regulations that it does not accept the recommendation; or

- (d) in a case not falling within (c) above where there has been an unsuccessful appeal to an adjudicator under the Representations and Appeals Regulations against a notice of rejection, with the date on which notice of the adjudicator's decision is served on the appellant.

Where an appeal against a notice of rejection is made but is withdrawn before the adjudicator serves notice of his decision, the relevant period in relation to a notice to owner is the period of 14 days beginning with the date on which the appeal is withdrawn.

Reg 22

Where a charge certificate has been served on any person and the increased penalty charge provided for in the certificate is not paid before the end of the period of 14 days beginning with the date on which the certificate is served, the enforcement authority may, if a county court so orders, recover the increased charge as if it were payable under a county court order.

Statutory Guidance

The Charge Certificate tells the vehicle owner that the penalty charge has been increased and that action will be taken to recover the amount due through the County Court if it is not paid within 14 days.

The guidance otherwise repeats the regulations.

The Relevant Period and Service

3. As the charge certificate can only be issued if the penalty charge has not been paid before the end of the relevant period it is important that the certificate should state that the payment has not been received before the end of that period. The relevant period, however, will run from a number of different dates depending on exactly what has happened previously. Enforcement authorities are recommended, therefore, to include the relevant regulation dealing with the meaning of the relevant period on the reverse of the certificate.
4. Equally, as the relevant period may run from the date of service of earlier documents or from service of an adjudicator's decision it is recommended that the rule relating to

service, which is also relatively complicated, is also set out on the reverse of the certificate.

Notes

5. There are a number of specific notes to the attached Specimen namely:

Note A

6. The term Notice to Owner includes a Regulation 10 PCN. In a Regulation 10 PCN case the Enforcement Authority may wish to use the words "Penalty Charge Notice" instead of "Notice to Owner" as this is how the earlier document will have been described. If retaining the words "Notice to Owner" in these circumstances it may be desirable to explain that this will include a Regulation 10 penalty charge notice

Note B

7. If the colour of the vehicle has been specified on the PCN and/or NtO then the enforcement authority may wish to include it in the Certificate. Inclusion of the colour is not, however, a statutory requirement although the Secretary of State's Statutory Guidance recommends inclusion of the colour of a vehicle in the PCN.

Note C

8. It is recommended that there should be a reference to the date of service. As the rules regarding service are complicated it may be considered desirable to attach a copy of Regulation 3 at the end of the NtO.

APPENDIX 2: TERMS OF REFERENCE

Outside London Joint Committee

Review of Parking Documentation and Notices in relation to the Traffic Management Act 2004

Terms of Reference

The Review Committee was requested to:

1. Review the parking documentation used by local authorities outside London in the course of enforcement of parking and traffic regulation.
2. Provide a brief overview of issues that have arisen under the RTA scheme in terms of local authority notices and documents.
3. Make recommendations for specimen documents to be used by local authorities outside London for civil enforcement of parking in compliance with the requirements of the TMA and associated regulations.
4. Recommend sample standard notices and letters required by the The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (Appendix 1) and The Civil Enforcement of Parking

Contraventions (England) General Regulations 2007 (Appendix 2) in accordance with the following priority list:

- (a) the Regulation 9 PCN having regard to the provisions of the Schedule of the General Regulations and Regulation 3 of the R&A Regulations.
 - (b) the Notice to Owner;
 - (c) the General Regulations PCN to comply with the three circumstances set out in Regulation 10(c) of the General Regulations.
 - (d) the Notice of Rejection;
 - (e) the Charge Certificate;
5. Provide more general recommendations regarding local authority correspondence. (The Local Government Ombudsman special report on parking documentation dealt with some of the issues that have arisen under the RTA scheme, and over the years the Adjudicators have commented upon local authority correspondence both in the form and the expressions used, particularly where it conveys the impression of fettering the local authority discretion.)
6. Undertake a staged approach to the documentation and produce recommendations as each stage of the review is completed, in accordance with the priority order set out above.
7. Produce a final report for consideration by Joint Committee

In making their recommendations, the Review Committee was also requested to:

- 1. Have regard to legal requirements of the Act and the importance of documentation being easily understood by the public with communication which aims to improve people's

knowledge and understanding of their rights and responsibilities in relation to parking enforcement.

2. Consider draft specimen documents, Parking Adjudicators Decisions which involve documents that have been subject to challenge or criticism and other relevant documentation including reports from the Local Government Ombudsman.
3. Take into consideration technical implications for software and print suppliers to the parking industry.

