

# Southend on Sea Borough Council Parking Policy



## INTRODUCTION

Parking restrictions are in place throughout Southend. The Council put these parking regulations in place in order to help reach its objectives set out in its local transport plan, these are:

- Tackling congestion to limit delays □
- Increasing accessibility to key services and facilities □
- Improving road safety and security □
- Enhancing the environment and quality of life □
- Improving management and maintenance of our transport network □

This policy document is split into three sections; general principles and contravention codes, considering received informal and formal representations and dispensation and suspension issues.

### General Principles and Contravention Codes

Enforcement of restrictions are between 8.00am and 6.00pm Monday to Saturday, Sundays between 9.00am and 6.00pm and evening enforcement of parking areas regulated by charges extending to 9.00pm and double yellow lines (24 hours).

The Civil Enforcement Officer (CEO) will serve a Penalty Charge Notice (PCN) to a vehicle when they believe a contravention to the parking restriction has occurred. When issuing a PCN the following information is collected and either printed on the PCN or detailed in the CEO's pocket book:

- Date of contravention
- Date the Notice was served
- Time of observation and service
- Make
- Colour
- Vehicle Registration
- Contravention description and code
- Location of alleged contravention (street/car park name)
- Road fund license number and expiry
- Any details of:
  - Pay and display tickets
  - Permits
  - Dispensation
  - Blue Badge
  - Any notes displayed
  - Any other information that may be displayed in the windscreen, windows or dashboard
  - Any other information that is relevant to the issue/service of the PCN
- Details on how the PCN was served i.e. PCN affixed to the windscreen, handed to motorist or whether the vehicle was driven away.

**Additional information:**

- Unique PCN number
- Name of Enforcing Authority
- Penalty Charge amount
- Methods of payments
- How to make payments
- How to challenge the PCN
- Address for payment and correspondence
- Payment periods (i.e. statutory payment and discount periods)

On completion, the PCN must be affixed to the windscreen of the vehicle or handed to the person appearing to the CEO to be in charge of it.

**Service of PCN by Post**

Enforcement of certain restrictions is undertaken by an approved device (CCTV) and in these circumstances, the PCN is sent by post to the registered keeper of the vehicle. PCN's will be issued by post if a vehicle is parked in contravention of the following restrictions.

- Parked on a bus stop clearway or bus stand clearway
- Parked on a School Keep Clear Marking (zig zags)

In certain circumstances the CEO will observe a vehicle to ascertain whether an exempt activity (such as loading/unloading, delivery/collection or boarding/alighting) is taking place or, in cases where a vehicle is parked in a permitted parking place without a pay & display ticket visible, to allow time for the driver to return with said ticket <sup>1</sup>. This observation period will be dictated by the type and location of the alleged contravention and also be reliant on other factors such as the effect on traffic flow or pedestrian access

An 'instant' PCN may always be issued in circumstances where the CEO concerned has evidence, other than a period of observation, which supports the action of issuing the PCN without observing the vehicle for any given period.

The introduction of differential charging on March 31<sup>st</sup> 2008 altered the way in which penalty charge notices are issued to vehicles. The charge amount of the penalty charge is dependant on if the contravention is more serious or less serious.

More serious	£70.00	Discounted	£35.00 (within 14 days)
Less serious	£50.00	Discounted	£25.00 (within 14 days)

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<sup>1</sup> Motorists are not permitted time to obtain change away from the immediate area of the P&D machine or car park. CEOs will normally observe queues at ticket machines and/or pedestrians who may be returning to the vehicle in question, before issuing a PCN.

A more serious contravention is normally where the motorist has taken no steps to park correctly, so for example, they have parked on single or double yellow lines, disabled bay or bus stop/stand.

Whereas a less serious contravention is deemed that the motorist attempted to park correctly, for example they are displaying a face down pay and display ticket, or an expired pay and display ticket.

Additional policies and practices:

- a) Vehicles may wait in a restricted area (other than on Clearways, including mandatory school “keep clear” markings) for as long as necessary to allow persons to board or alight and/ or to load/ unload personal luggage.
  - b) Waiting and unloading restrictions and prohibitions do not apply to marked vehicles, or vehicles with official notices, being used for Fire Brigade, Ambulance, Police, RNLI or Coastguard purposes, Royal Mail and other mail delivery organisations.
  - c) Statutory undertakers/ companies’ vehicles (and those of their authorised contractors) may wait in restricted and prohibited areas whilst being used for necessary works such as laying, erection, alteration or repair of sewers, pipes/ apparatus for the supply of gas, water or electricity.
  - d) Waiting Restrictions normally apply to the entire width of the Highway, including footways, grass verges and permanent vehicle cross-overs (PVXs). Consequently, PCNs will be issued to vehicles:
    - which encroach, with more than one whole wheel onto a footway from private land or from a long vehicle cross-over (across a wide verge) or from a carriageway
    - which encroach from a private property or PVX onto a carriageway by more than one whole wheel
    - Parked on any part of a grass verge where there are appropriate waiting restrictions. (Unless specific directions are given not enforce such an area.) Vehicles on crossovers are not issued to, unless they are obstructing the footway.
  - e) Vehicles will be deemed to be in contravention if any part of that vehicle is out of a marked bay and encroaching onto a waiting restriction by at least one wheel.
  - f) Loading and unloading: A CEO will carry out constant observation (Private vehicles) or casual observation (commercial vehicle) when it is deemed loading/unloading is taking place. Loading, unloading, collection and delivery includes: reasonable time in delivering goods within the premises, waiting for the goods and/or completion of relevant paperwork.
- When parking the vehicle the motorist should understand and be able to demonstrate that the use of the vehicle is necessary rather than convenient.
- g) It is part of Southend’s policy to take photographs of any vehicle issued with a PCN.
  - h) Pay and display tickets are not transferable between vehicles or parking places.

## Considering informal and formal representations

The guidelines in this section are intended as a guide for staff when considering representations, whether formal or informal, to PCNs issued in accordance with the Traffic Management Act 2004. (TMA 2004)

This is consistent with Statutory Guidance issued by the Department of Transport (in accordance with the Traffic Management Act) and aims to provide clarity, consistency and transparency within the enforcement process and comply with the aspirations of the Traffic Penalty Tribunal and the Local Government Ombudsman.

The TMA 2004 gives eight grounds for representations on receipt of a Notice to Owner (NtO) and one further ground to these for a Postal (Section 10) PCN (sent where a vehicle has been driven away, or, the CEO has been prevented from serving the PCN) as listed below:

- the alleged contravention did not occur
- the recipient was not the owner of the vehicle at the time of the contravention
- the vehicle had been permitted to remain at rest in that place by a person who was in control of the vehicle without the owner's consent
- the recipient is a vehicle-hire firm and:
  - at the time of the contravention the vehicle was on hire and
  - the person hiring the vehicle had signed a statement of liability in respect of any penalty charge notice served during the period of the hire agreement
- the charge exceeds the appropriate amount
- there has been a procedural impropriety on the part of the enforcement authority
- the traffic order was invalid
- The PCN has already been paid.
- the enforcement officer was not prevented from serving the original PCN (Postal PCN only)

The TMA 2004 also requires that Local Authorities consider both 'informal' representations (those made on receipt of a PCN) and 'formal' representations (those made after service of the NtO or Postal PCN by the person to whom the documentation was sent).

Statutory Guidance states that the Local Authority must carefully consider all representations, both formal and informal, whether or not they fall into the above categories, and although the TMA allows 56 days for the authority to reply to formal representations, Statutory Guidance gives suggested reply times for these replies, 14 days for informal representations and 28 days for formal representations. Southend will consider all representations and will endeavour to reply well within the time constraints laid out in Statutory Guidance.

What is important about these guidelines is that they represent a foundation upon which fairness and discretion can be applied. The importance of flexibility in these matters has been recognised by the courts and, as a consequence, decisions made by councils must always give consideration to all the circumstances surrounding the issue of every PCN and take into consideration any mitigation put forward by the motorist or owner of a vehicle.

The policies address the following:

- *The statutory grounds upon which representations may be made*
- *Mitigating circumstances*
- *The acceptance or rejection of representations*

**It is important to recognise that each case will be considered on its own merits and matters of proportionality, objectivity, fairness and reasonableness should be paramount. These guidelines must not fetter the use of discretion and officers should ensure this is considered in all cases.**

Please refer to the end of this document for the flowchart that shows the 'life-cycle' of the PCN.

These policies will be subject to ongoing review.

## Important Note

Although the following include the Statutory Grounds to make formal representation following service of a Notice to Owner, or a Postal PCN, in accordance with the directives issued in both the legislation and Statutory Guidance, full consideration will be given to all representations and mitigation received, whether or not they fall within the description of any “**Statutory Grounds**” and each case will be judged on its own merits.

### Disabled Badge Parking

Where you may park

You may park using your Blue Badge in the following locations:

#### Designated Disabled Parking Bays

- Nearside Parking Bays (passenger side nearest the Kerb) *Nearside parking bays allow passengers with a disability to get out of a vehicle onto the pavement.*
- Offside Parking Bays (driver's side nearest the kerb) *Offside bays cater for drivers with a disability, who can travel independently, and get in and out of a vehicle on the driver's side.*

#### Pay and Display Parking Bays

Pay and Display On-Street parking bays are available with nearside/offside parking. If you display your Blue Badge you do not have to pay to park.

#### Parking on Yellow Lines

Nearside/offside parking for Blue Badge holders is allowed on yellow lines as long as:

- you do not cause an obstruction,
- there are no loading restrictions,
- you do not park for longer than 3 hours, and
- The clock must be set at the time of arrival and displayed clearly with the badge.

Where you must **not** park

**The Blue Badge is not a licence to park anywhere.** You must **NOT** park during the time a ban on loading or unloading is in force (normally indicated by one or two yellow marks on the kerb [Chevrons] at the times shown on the post mounted plates).

However, in pedestrian areas, waiting and loading restrictions may be in force even where there are no yellow lines shown on the road or kerb. Details of any restriction in force will be shown on plates displayed at the kerb side of the road. You must **NOT** park in the following places:

- Where there are double white lines in the centre of the road even if one of the lines is broken.

- In a cycle lane
- On any clearway, double or single lines during their hours of operation.
- On all Pedestrian crossings-including Zebra, Pelican, Toucan and Puffin crossings
- On zigzag markings before and after Zebra, Pelican, Toucan and Puffin crossings
- In parking places reserved for specific users, e.g., loading bays, taxis, cycles
- Where temporary restrictions on a parking are in force along a length of road e.g. as indicated by no waiting cones
- In suspended Pay and Display meter bays or when use of the meter or bay is prohibited
- On school keep clear markings during the hours shown on a yellow no-stopping plate

You must **NOT** park where it would be obstructive or cause danger to others. The following are likely examples:

- At school entrances, bus stops, on a bend, or near the brow of a hill or hump bridge
- Where it would make the road narrow, e.g. by a traffic island or where road work is in progress
- Where it would hold up traffic, e.g. in narrow stretches of road or blocking vehicle entrances
- Where emergency vehicle stop or go in and out, e.g. hospital entrances
- Where the kerb has been lowered or road raised to form a pedestrian crossing or access to a property.

<b>Disabled Badge Parking (Failure to park in accordance with the Department of Transport (DfT) guidelines issued to all Blue Badge holders)</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If it can be established that the signage is not acceptable for the type of contravention specific to Blue Badge holders	If the vehicle was parked in contravention in accordance with the DfT guidelines



<b>Loading/Unloading - where the motorist claims he/she was loading/unloading</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>Where there is an exemption in the Traffic Orders for vehicles on a waiting prohibition or in a controlled bay:</p> <p><b>If evidence is provided to show:</b></p> <ol style="list-style-type: none"> <li>1. Goods being delivered or collected were heavy, bulky, or numerous and it would be unreasonable to expect them to be carried from a 'legal' parking place.</li> <li>2. Loading/unloading activity was adjacent to the premises concerned.</li> <li>3. Loading/unloading activity was timely (includes checking goods and paperwork, but not delayed by unrelated activity)</li> <li>4. If in the course of business, including commercial delivery/collections, couriers, multi drop parcel carriers, removal services</li> </ol> <p>[Source – Traffic Orders, decided cases e.g. Jane Packer Flowers]</p>	<p>Where loading/unloading is prohibited such as:</p> <p>on School 'keep clear' zigzag markings;</p> <p>on Bus Stop clearways;</p> <p>on designated bays eg Taxi ranks, Police bays, permit bays;</p> <p>in car parks: (except when depositing materials in recycling bins);</p> <p>On Loading Bans.</p>

<b>Pay &amp; Display Ticket Machine Faulty- where the motorist claims that a pay &amp; display ticket machine was faulty</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>There was not another ticket machine in the vicinity that was operating correctly and:</p> <p>If service records confirm a fault or that the machine had been taken out of service at the time of the contravention;</p> <p>If there is reasonable doubt because evidence is not available to confirm that a machine was working at the time (computer record or test ticket).</p>	<p>If there was another ticket machine nearby that was working correctly at the time;</p> <p>If there is no record of the machine being faulty or taken out of service;</p> <p>If there is reasonable doubt because evidence (from computer records or CEO's notes) confirms that other visitors had been able to purchase tickets from the machine during the relevant period.</p>

<b>Signs /Lines Unclear - where the motorist claims that the restriction is not clearly signed or marked</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If signs and/or markings are missing or unclear or not visible;</p> <p>If signs and markings are inconsistent with each other and/or Traffic Order or legislation.</p>	<p>If site visit records or photographs establish that signs and/or markings are correct and consistent with each other and the Traffic Regulation Order.</p> <p>Lines are not required to be in perfect order and if it is clear a restriction is in place regardless of whether the lines are broken and normal wear and tear.</p>

<b>Construction or Demolition Works- where motorist was carrying out construction or demolition works etc</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If evidence confirms that the motorist was simply loading/unloading (see policy regarding loading/unloading above);</p> <p>If a valid dispensation to park at the location in question had been issued and was on display in the vehicle;</p> <p>If works are of a statutory nature or are exempted from restrictions by a Traffic Order or legislation;</p> <p>If it can be proven that works were an emergency.</p>	<p>In all other circumstances.</p>

<b>PCN Was Not Served - where the motorist claims that PCN was not served</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the CEO pocket book and/or computer notes confirm that the vehicle drove away before the production of a PCN could be started, i.e. the CEO had not input any details into his note book or hand held computer and no photographs.	<p>If the CEO notes or photographs confirm that a PCN was fixed to the windscreen of the vehicle;</p> <p>The pocket book states the PCN was prevented from being served by force, threats of force, obstruction or violence and a PCN had been sent through the post.</p>

<b>Not Parked at the Location - where the motorist claims that their vehicle was not parked in the alleged location at the time and on the date the PCN was issued</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>Following consideration of all available evidence. Where evidence is not adequate or details of the PCN differ from those recorded in the CEO's pocket book;</p> <p>If the motorist provides a copy of their vehicle excise license (tax disc), which was valid at the time of the contravention, and the serial number of which differs from the number noted by the CEO.</p>	<p>If the motorist does not provide a copy of their tax disc, after being given an opportunity to submit such a copy;</p> <p>If the serial number on the copy tax disc provided by a motorist is identical to the serial number noted by the CEO (or shown in any photograph taken by the CEO);</p> <p>If there is no evidence or the evidence presented does not support the claim and is consistent.</p>

<b>Authorisation to Park given - where the motorist claims that valid authorisation to park had been permitted</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the motorist can produce a valid authorisation i.e. dispensation to park or records show that the motorist held a valid authorisation to park. (Issued by either the Council or Police Officer).	<p>If the motorist cannot provide a copy of the valid authorisation to park or if there is no record of any issue of the authorisation;</p> <p>If the motorist had authorisation to park however did not park in accordance with the authorisation given.</p>

<b>Pay &amp; Display Ticket Displayed - where the motorist claims that a pay &amp; display ticket was purchased and correctly displayed</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the motorist produces a Pay &amp; Display parking ticket that was valid at the time the Penalty Charge Notice was issued and the CEO evidence (Notes and/or photograph) confirms:</p> <ul style="list-style-type: none"> <li>• <b>A ticket was displayed ‘face down’</b></li> <li>• <b>A ticket was displayed but partially concealed so that relevant details (expiry time, date, etc) could not be seen and checked</b></li> <li>• <b>The ticket serial number printed on the back of the ‘face down’ ticket matches the details of the ticket produced.</b></li> </ul> <p>Note: in the above circumstances the PCNs may be cancelled on the 1<sup>st</sup> occasion, any subsequent PCNs issued in similar circumstances will be considered, however will be unlikely to be cancelled;</p> <p>If the motorist produces a pay and display ticket that was valid at the time the PCN was issued and provided reasonable explanation on why the pay and display ticket was not clearly displayed in the windscreen of the vehicle;</p> <p>Note: in the above circumstance the PCN may be cancelled on the 1<sup>st</sup> occasion, any subsequent PCNs issued in similar circumstances will be considered, however will be unlikely to be cancelled.</p>	<p>If the motorist is unable to produce a ticket that was valid at the time the PCN was issued;</p> <p>The serial number of the ticket produced does not match serial number printed on the back of the ticket seen by the CEO;</p> <p>Where the registration number details entered at the time of purchase and printed on the ticket produced, do not match the registration number of the vehicle concerned, subject to some latitude being allowed for errors;</p> <p>A PCN issued previously in similar circumstances was cancelled And the driver/owner was told that further PCNs issued in similar circumstances would not be cancelled;</p> <p>When evidence confirms that the ticket produced was not purchased by the motorist (obtained from another motorist, found in the car park, etc).</p>

<b>Penalty Exceeded the Relevant Amount</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the PCN and/or Notice to Owner showed the incorrect amount of penalty charge, i.e. the wrong penalty charge band.	If the PCN and Notice to Owner showed the correct amount of penalty charge.

<b>Traffic Order invalid</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the Traffic Regulation Order prescribing the restrictions that the vehicle concerned contravened is defective in some way i.e. is ultra vires, was not made in accordance with relevant procedure or is inaccurate or incorrect in terms of detail.	<p>If the relevant Traffic Regulation Order is sound and accurate in all respects;</p> <p>If the motorist merely considers the restrictions to be unfair.</p>

<b>Vehicle Sold/Disposed of, or Purchased, after Contravention- where the registered (as notified by the DVLA) keeper claims that the vehicle was disposed of before, or purchased after, the contravention occurred</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the registered keeper is able to provide proof that the vehicle was disposed of before, or acquired after, the contravention, i.e. a bill of sale, registration document, insurance documents or a letter from the DVLA;</p> <p>If the registered keeper is able to provide the full name and address of the person to whom they disposed of the vehicle, or acquired the vehicle from;</p> <p><b>ACTION</b> - send a new Notice to Owner to the person named by the registered keeper.</p>	<p>If the registered keeper is unable to prove that the vehicle was disposed of before the contravention, or acquired the vehicle from, nor able to provide the name and address of the person to whom the vehicle was disposed;</p> <p>If the person named by the registered keeper as the person to whom the vehicle was disposed, or acquired from, does not exist, cannot be traced or some other reason not considered to be bona fide.</p>

<b>Hired vehicle - where the current registered keeper claims that a contracted third party was responsible for the vehicle at the time of the contravention</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
When an approved, signed, formal hire agreement exists (see policy regarding hire vehicles).	In all other circumstances because the registered keeper is always liable, including where the vehicle was left in the care of a garage.

<b>Claims that they never owned The Vehicle - where the motorist claims that they never owned the vehicle</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the DVLA confirm the motorist was not the registered keeper at the time of the contravention;</p> <p>The matter has been reported to the Police as the vehicle has been 'cloned and a 'ringer' is believed to be in existence;</p> <p>There is substance/proof in the claim by way that it is believed that the vehicle has been fraudulently registered.</p>	<p>If the DVLA confirm the motorist was the registered keeper of the vehicle at the time of the contravention;</p> <p>If the previous registered keeper provides proof that the motorist purchased or acquired the vehicle before the contravention, or the subsequent registered keeper provides proof that the motorist sold or disposed of the vehicle after the contravention;</p> <p>If the motorist is proven to have hired the vehicle for the day on which the contravention occurred and signed an agreement to take responsibility for PCNs incurred, subject to the time of hire (see policy regarding hire vehicles).</p>

<b>Vehicle had been stolen - where the current registered keeper claims that the vehicle had been stolen</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the registered keeper provides a valid Police crime report reference number which must be on headed paper or official compliment slip.</p>	<p>If the current registered keeper is unable to provide any proof of theft;</p> <p>If the Police crime report reference number provided by the current registered keeper does not exist or it does not match the theft or date of the theft alleged.</p>

<b>Owner is a Hire Company - the owner is a hire company and they have supplied the name of the hirer</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the hire company is able to provide proof that the vehicle was hired at the time of the contravention, i.e. a signed agreement If the hire company are able to provide the full name and address of the person to whom they hired the vehicle;</p> <p><b>ACTION</b> - send a new Notice to Owner to the person named by the Hire Company.</p>	<p>If the hire company are unable to prove that they hired out the vehicle on the date of the contravention nor provide the name and address of the person to whom they hired the vehicle;</p> <p>If the person named by the hire company as the person to whom they hired the vehicle, without proof, either does not exist, cannot be traced or denies responsibility for the contravention;</p> <p>If the vehicle was being used as a courtesy car without an agreement signed to accept responsibility for PCNs issued.</p>

<b>Procedural Impropriety - there has been a procedural impropriety on the part of the enforcement authority</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If there is evidence that the Council has failed to send out statutory documentation within the time constraints of the Traffic Management Act 2004;</p> <p>The Council has failed to respond to Informal or formal representations within the Guidelines set in Statutory Guidance;</p> <p>Where it is deemed that the Council have not followed the guidelines as outlined in the Traffic Management Act 2004, Statutory Guidance and accompanying regulations.</p>	<p>In all other circumstances</p>

<b>PCN has already been paid</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If a copy of the endorsed reverse of payment cheque or debit/credit card payment reference supplied;</p> <p>Signed receipt issued by the Council with the PCN reference shown on it.</p>	<p>In no other circumstances.</p>

<b>Unwell while driving - where the motorist claims that they or a passenger have become unwell while vehicle being driven</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the motorist provides proof of a medical condition, temporary or permanent, that is consistent with the conditions described and supports the need to park in contravention of the regulations;</p> <p>When the notes made by the CEO support the motorist's representations.</p>	<p>If the motorist cannot provide some proof of a medical condition, temporary or permanent, consistent with the conditions described;</p> <p>Where other evidence contradicts the motorists claims.</p>

<b>Medical Staff Attending Patient - where the motorist claims to be a doctor, nurse or health visitor attending a Patient</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the motorist produces evidence that they were responding to an urgent medical call and there was no nearby legal parking place.</p>	<p>If motorist was not attending a patient in urgent circumstances or if there was a legal parking space nearby;</p> <p>If motorist was parked outside their practice or other place of work for any reason other than to collect supplies for an urgent call;</p> <p>If motorist was parked in an area which does not correspond with the claim made, i.e. far from patients location, say, in a car park.</p>



<b>Stopped to use the Toilet - where the motorist stopped to use the toilet</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
On production of medical evidence confirming a relevant medical condition and in support of the circumstances described (i.e. the need to park in contravention of the regulations).	If no satisfactory medical reason given.

<b>Visiting a Doctor's Surgery- where the motorist was a patient visiting a doctor's / Dentist's surgery</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the motorist can provide a letter from a doctor (or dentist) to confirm that the visit was very urgent and that they were unable to walk from the nearest legal parking space.	<p>If the motorist was not the patient but only driving the vehicle carrying the patient;</p> <p>If the motorist was attending a pre-arranged, non-urgent appointment;</p> <p>If the motorist could reasonably have been expected to park legally elsewhere.</p>

<b>Delayed in Returning to their Vehicle - where the motorist was delayed in returning to their vehicle and parking time purchased had expired</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If supported by appropriate evidence, the motorist's claims that the delay returning to the vehicle was caused by circumstances that were entirely unforeseeable, unavoidable and exceptional;</p> <p>If motorist's vehicle had broken down (proof must be provided);</p> <p>If the motorist was rendered unable to drive, since parking the vehicle, letter from Hospital or Doctor etc.</p>	<p>If the delay described by the motorist was entirely avoidable, i.e. queuing in a shop;</p> <p>If the motorist simply underestimated the time needed and could have reasonably purchased more time, i.e. when conducting business, shopping or commuting;</p> <p>If the motorist was unable to drive since parking due to excess alcohol in the body.</p>

<b>Gone for Change - where the motorist left the vehicle parked without a valid ticket on display to obtain change</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the motorist had not left the car park, or on-street pay and display area and was in the process of obtaining a pay and display ticket and a ticket was purchased.	<p>CEO's evidence confirms there was either no one in the car park who may have been obtaining or trying to obtain change, queuing for or purchasing a car park ticket from a machine or that any individuals seen who may have been doing so, having been allowed sufficient time to do so did not return to the vehicle under observation;</p> <p>If the CEO's notes indicate that the motorist returned to the vehicle while the PCN was being issued: having apparently completed the purpose which led to the vehicle being parked in the first place, i.e. carrying shopping etc;</p> <p>Having obtained change outside the car park or away from the on-street pay and display area.</p>

<b>Changes to Regulations - where the motorist claims to have been unaware of the parking charges payable or restriction/prohibitions applicable to vehicles of a certain class or weight</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If signing relating to the parking charges payable, restriction or prohibitions in force applicable to a vehicle of that class or weight are incorrectly or inadequately signs or missing all together.	In other circumstances.

<b>Tariff Rise (Recent) - where the motorist claims to have been unaware of recent rise in tariff</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If statutory notices were not erected in accordance with procedural regulations;	If statutory notices were erected in accordance with procedural regulations and tariff board(s) were correct.

If revised tariff is not on tariff board(s).	
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<b>Parked outside Markings of Bay - where the motorist had parked with one or more wheels outside of a marked parking bay in a car park</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
Only in the most exceptional of circumstances that were outside the motorists control and are supported by Incontrovertible evidence.	When clear and incontrovertible supporting evidence (photographs/Sketch plan) is available.

<b>Disabled Badge (Failure to Display / Partially Displayed or Displaying Expired Badge) - where the motorist is a Blue Badge holder/transporting a Blue Badge holder and they did not have their Blue Badge and/or clock on display or could not be read or had expired</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If it can be established that this is the motorist's first contravention of this type and they can provide evidence that they are a Blue badge holder or were transporting a Blue Badge holder. Evidence of the Blue Badge has to be provided</p> <p>If the motorist is parked on a waiting restriction beyond the 3 hours time limit permitted or on another restriction for which the Blue Badge scheme does not provide an exemption the PCN may be cancelled if it is their first contravention.</p>	If the motorist has previously had a PCN cancelled for the same contravention and has been warned to display a valid badge / time clock, correctly in the future or advised on where the Blue Badge permits them to park.

<b>Controlled Parking Zone (Unaware Of) - where the motorist claims to have been unaware of the existence of a Controlled Parking Zone (CPZ)</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If it can be established that the signing and markings of the CPZ are at fault (missing and/or unclear entry signs/bay signs or markings).	In other circumstances.

<b>Expired Authorisation to Park - where the motorist was displaying an expired authorisation to park, i.e. dispensation, parking place suspension, season ticket, residents' permit and staff permit</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the renewal of the authorisation was delayed by the Council's administrative processes;</p> <p>If it can be established that other reasonably unforeseen circumstances delayed the renewal of an authorisation to park, e.g. sickness on the part of the applicant or a postal dispute/delays (supported by appropriate evidence)</p>	In other circumstances

<b>Controlled Parking Zone (New Resident) - where the motorist is a new resident within a controlled parking zone and had parked in a residents' bay without displaying a valid residents' permit</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the permit was applied for in good time and the issue of the permit was unduly delayed by the council.	In other Circumstances

<b>Grace Period - where the motorist assumed that they were entitled to "a period of grace" before the PCN was issued</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
There is no statutory 'grace period' and therefore there are no foreseeable circumstances in which a PCN will be cancelled.	In all circumstances

<b>Attending a Funeral - where the motorist claims they were attending a funeral</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If hearse or funeral cars supplied by the Funeral Directors	Only if there is a significant reason to doubt the sincerity of the representations.

In other cases if no evidence exists to the contrary, consideration will be given.	
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<b>Obscured Road Markings - where the motorist claims that snow, foliage, fallen leaves or flooding covered the signs or markings</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If it can be established that such conditions prevailed and it is likely that signs and markings were obscured as claimed and there was no alternative indication of the restriction.	<p>If it can be established that such conditions did not cause lines and signs to be obscured as claimed.</p> <p>If the CEO's notes photographic evidence etc. directly contradict the motorist's version of events</p> <p>If any reasonable alternative indication of the restriction was available to the motorist. If the location of the contravention was unlikely to be subject to the weather conditions</p>

<b>Breakdown - where the motorist claims that the vehicle had broken down</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the motorist is able to provide satisfactory evidence of a breakdown, i.e. proof of vehicle recovery or a bill of sale for repair or parts.	<p>If the motorist is unable to provide satisfactory evidence of any kind that their vehicle had broken down</p> <p>If the cause of the vehicle "breaking down" was due to negligence on the part of the motorist, i.e. the vehicle had not been properly maintained, had run out of petrol or water or a similar reason</p> <p>If the CEO's notes contradict the motorist's version of events.</p>

<b>Attending an Emergency - where the motorist claims that they were attending an emergency or another vehicle that had broken down</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the motorist is able to provide reasonable proof of the emergency, i.e. a credible report of an accident or incident, or that they were attending to another vehicle that had broken down	<p>If the motorist is unable to provide evidence of any kind that they were attending an emergency or another vehicle which had broken down</p> <p>If the CEO's notes contradict the motorist's version of events, i.e. the motorist was not seen attending an emergency or another vehicle which was broken down</p>

<b>Paid Wrong Machine - where the motorist claims to have put money into the wrong ticket machine</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the position of the ticket machine used by the motorist is likely to cause confusion.	<p>If the ticket machine used by the motorist is positioned in such a place that confusion is not likely, providing adequate signs are in place – cannot use On-Street machines in car parks and visa versa</p> <p>If the motorist has had representations accepted for a similar contravention in the same place, previously.</p>

<b>Attending Bank - where the motorist claims to have been collecting or depositing monies at a bank</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the procedure explained in the motorist's representations is consistent with the allowance for loading and unloading;</p> <p>If specific arrangements have been agreed;</p> <p>Security company delivering/collecting money</p>	In all other circumstances

<b>Temporary Restrictions - where the motorist claims to have been unaware of a temporary parking restriction or special event restriction</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the motorist claims that there was no indication of the restriction, and the CEOs notes/photographs do not confirm that appropriate signing was in place.</p> <p>If the process followed to make the temporary order was defective in some way.</p>	<p>If the CEOs notes/photographs confirm that the vehicle was parked in an area restricted by the Temporary Order or Notice, and that appropriate signing was in place and clearly visible</p>

<b>Owner Absent - where the registered keeper liable for payment of the PCN is expected to be absent for a long period of time, e.g. is living abroad or is in prison</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
In no foreseeable circumstances	On all occasions

<b>Owner Deceased - where the registered keeper liable for payment of the PCN is said to have died</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
Where the circumstances can be confirmed (by sensitive enquiry).	Only if there is a significant evidence to doubt the sincerity of the representations

<b>Diplomatic Immunity - where the vehicle driven by the motorist is diplomatically registered</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>In all circumstances. A Notice to Owner should never be sent to the keeper of a diplomatically registered vehicle</p> <p>Southend Council should be informed of all penalty charges that are not paid by keepers of diplomatically registered vehicles. They will pass information concerning these debts on to the Foreign and Commonwealth Office</p>	In no circumstances

[Source – Operational Guidance Sec 9 Para 23]	
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<b>Fixed Penalty Notice (FPN) Issued - where the motorist received a Fixed Penalty Notice (FPN) from a police officer when parked in the same location</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If confirmation provided by the police that proceedings for a criminal offence in connection with the same parking/waiting incident have been instituted	In all other circumstances

<b>Council Officer / Member - where a Council officer or Member parked in contravention and claims to have been on Council business</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If the officer was carrying out emergency or other statutory work and the vehicle could not have been reasonably parked elsewhere	If it can be established that the officer/Member could have reasonably parked elsewhere.

<b>Boarding / Alighting - where the motorist stopped to drop off someone</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If the circumstances are seen by the CEO</p> <p>If, in exceptional circumstances and subject to observations times, the motorist had to escort a passenger (child, elderly or disabled person) to home, or school entrance / exit</p>	If motorist was parked/stopped on school keep clear markings, pedestrian crossing, bus stop clearway

<b>Overnight Waiting Ban - where motorist was unaware of the Overnight Waiting Ban/Commercial Vehicle waiting restriction</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If motorist was instructed / authorised to park in contravention of the restriction by the police.	In other circumstances



<b>Police Custody- where motorist states they were in Police custody when PCN issued</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If proof (from the Police) has been provided that the Police had instructed the motorist to leave the vehicle.</p> <p>If the time of arrest (proof required from the Police) provides confirmation that motorist was legally parked and was unable to move vehicle before the restriction started</p>	<p>If no proof provided</p>

<b>Urgent Circumstances - where motorist states they were visiting a friend or relative in urgent circumstances</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If due to an emergency the parking contravention could not be avoided due to the exceptional nature of the incident.</p> <p>Proof required, dependant on the circumstances</p>	<p>If motorist has already received a PCN, which has been cancelled for the same reason</p> <p>If the CEO's Pocket Book notes provides significant reason to doubt sincerity of representation</p>

<b>No Legal Parking Place Available - where motorist claims there was no legal place to park</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>Only in the most exceptional of circumstances</p>	<p>In the absence of exceptional circumstances</p>

<b>Private Property - where motorist claims they were parked on private property</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
<p>If land search maps confirm location is private property &amp; not subject of the relevant</p>	<p>In other circumstances</p>

Traffic Regulation Order.	
If there is insufficient evidence to establish location of vehicle	

<b>Seeking Directions/Opening Gate - where motorist had parked while asking directions / opening gates to private property</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If evidence provided by the CEO does not contradict representations.	In all other circumstances
If proof can be provided that the driver left the vehicle to obtain/return entry pass/key to gate of private property	

<b>Mobile Telephone - where motorist stopped to answer mobile phone</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
In no circumstances	On all occasions

<b>PCN Incorrect - where motorist states that the details on the PCN are incorrect, e.g. location</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
If there is reason to doubt that the PCN was issued correctly, taking into account evidence provided by the CEO	If the PCN was fully and correctly completed

<b>Bank Holidays - where motorist states they were unaware of enforcement on Bank/Public holidays</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>
In no circumstances	On all occasions

<b>Lines / Signs Placed After Vehicle Parked - where motorist states that restriction was marked after the vehicle had been parked</b>	
<b>Cancellation Considered</b>	<b>Cancellation Unlikely</b>

<p>If records confirm that signing/lining/placement of cones or suspension notices was likely to have taken place after the vehicle parked.</p>	<p>If there is evidence to show that markings were already in place at the time of parking.</p>
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## **Dispensation, Suspension and Permit policies**

### **Dispensations**

The Council, in certain circumstances, will allow, by the issue of a dispensation, a vehicle or vehicles to park lawfully in what otherwise would be in contravention of a Traffic Regulation Order (TRO)

As a corollary of the above and deal with traffic flow needs, maintenance/works or special events, it will also from time to time, suspend parking places either in total or for the purpose of reserving those places for particular vehicles and/or applicants.

Charges are applied for these services and current charges are found in the agreed fees and charges available on the council website [southend.gov.uk](http://southend.gov.uk)

No charge will be made for any hearse and chief mourners' vehicles at funerals or bridal vehicles at weddings.

A dispensation permits a vehicle to park in contravention of the TRO. They allow parking where alternative arrangements cannot be made for the following principle reasons:

- Loading/unloading where the activity is either normally prohibited or the permitted period is insufficient; or
- Situations where alternative arrangements would be unsatisfactory

Dispensations can be issued for:

- Furniture removals;
- Building maintenance/repair works where close proximity to the site is essential. (Where it is established that an application is connected with work in large developments, the number of dispensations will need to be controlled. An inspection will be made by an appropriate member of staff to determine the maximum number of dispensations to be issued);
- Vehicles essential to filming operations;
- Other circumstances which may reasonably be regarded as essential or appropriate.

Dispensations will not be issued in these circumstances:

- Applications where parking may adversely affect disabled, doctors, taxi ranks or bus stops;
- Application where loading restrictions are in place if the dispensation is requested during the restricted period;
- Locations within 50 meters of a signal controlled junction, the entry/exit pedestrian crossing marking, or a footway and/or other locations where parking may cause a danger to pedestrians and road users, serious obstruction/traffic flow impediment;
- Requests where there are doubts concerning validity of the application;
- Applications in respect of vehicles where dispensations have been issued more than twice within the four weeks before the date of the application. Officers have discretion to vary this if it is considered otherwise reasonable to approve the application where adequate parking exists nearby

Applications should be received within two working days before the required date to enable the Council to inspect the site before approval is given. However, Officers have discretion to deal with more urgent applications if it is reasonable to do so.

Dispensations should not be issued for continuous periods in excess of seven days and should not authorise parking for more than two vehicles at any one location unless the Officer is satisfied that the road width and length and precise location permit this safely.

## **Suspensions**

The action to suspend parking places is taken when it is considered necessary to suspend the parking places for the following reasons:

- Traffic movement and safety;
- Essential building/maintenance works;
- Furniture removals;
- Filming;
- Special events;
- Wedding and funerals

The suspension does not permanently remove the legal status of the parking place. Its only effect is to remove it (or the designated part of it) from use during the suspension period.

Public suspension applications must be received no later than 10 working days before the required date in respect of resident and other permit places or five working days for Pay and Display machines.

Notice is not mandatory in regard to emergencies or in respect of statutory undertakings, although in normal course of events that latter will be notified in advance. Such emergencies may embrace action taken by the Police to suspend parking places immediately and without notice for matters of security and public safety.

A suspension may be extended provide the Council receives at least one working day's notice. This is necessary in order that appropriate on street action may be taken to indicate the continuance and to advise normal users of what is happening.

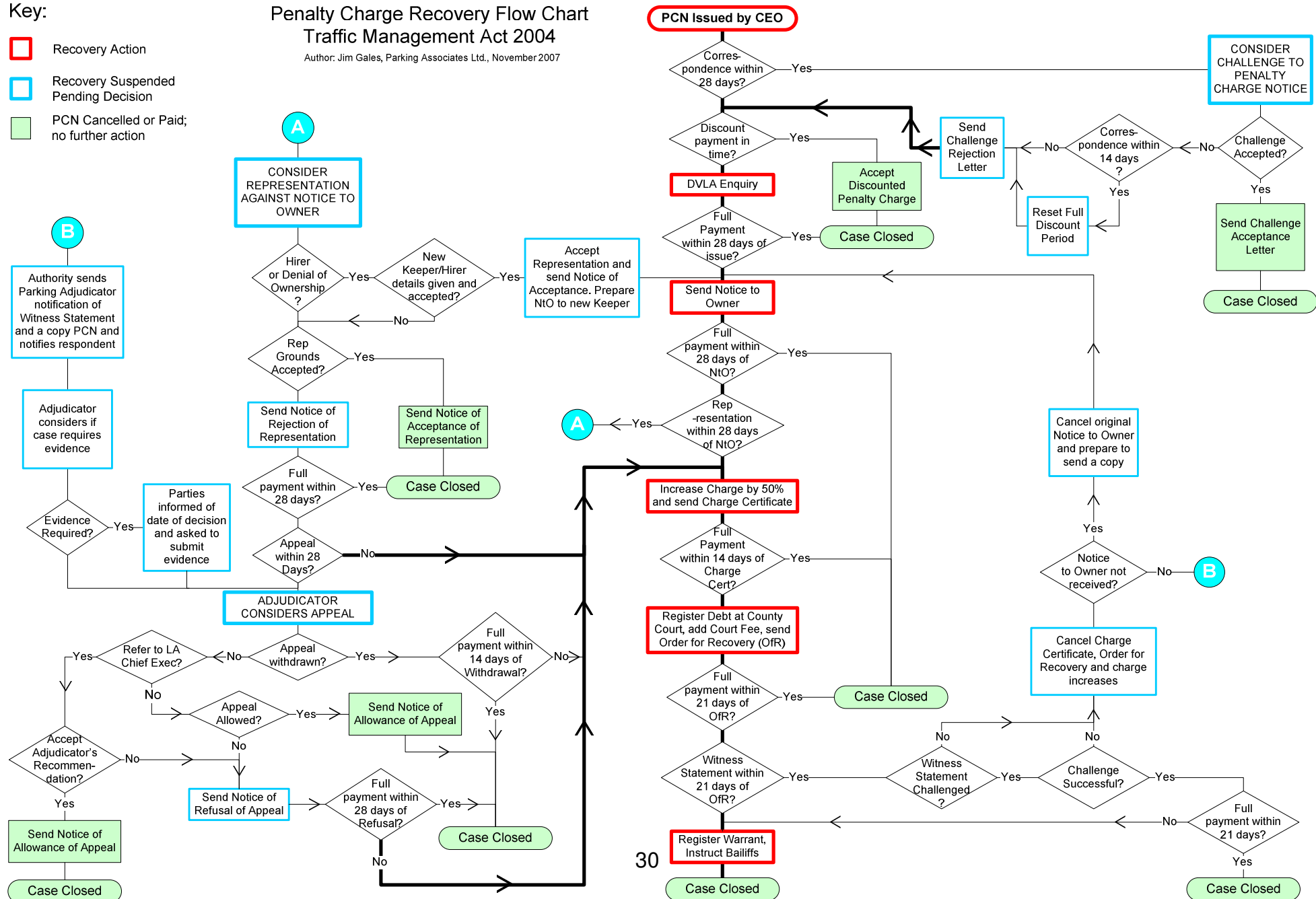
Suspensions are not normally granted in respect of cars. The motorist must park these in accordance with the regulations.

Key:

- Recovery Action
- Recovery Suspended Pending Decision
- PCN Cancelled or Paid; no further action

## Penalty Charge Recovery Flow Chart Traffic Management Act 2004

Author: Jim Gales, Parking Associates Ltd., November 2007



## Contravention Codes and Observation Periods

### ON STREET

Code	Description	Obs Period	Differential Level
01	Parked in a restricted street during prescribed hours	3 mins	Higher
02	Parked or loading/unloading in a restricted street where waiting and loading/unloading restrictions are in force	Instant	Higher
05	Parked after the expiry of paid for time	Instant *	Lower
06	Parked without clearly displaying a valid pay & display ticket or voucher	Instant *****	Lower
07	Parked with payment made to extend the stay beyond initial time	Instant	Lower
12	Parked in a residents' or shared use parking place without clearly displaying either a valid permit or voucher or pay and display ticket issued for that place	Instant **	Higher
14	Parked in an electric vehicles' charging place during restricted hours without charging	Instant	Higher
16	Parked in a permit space or zone without clearly displaying a valid permit	Instant	Higher
18	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Instant	Higher
21	Parked in a suspended bay/space or part of bay/space	Instant	Higher
22	Re-parked in the same parking place or zone within one hour *** of leaving	Instant	Lower
23	Parked in a parking place or area not designated for that class of vehicle	Instant	Higher
24	Not parked correctly within the markings of the bay or space	Instant	Lower
25	Parked in a loading place during restricted hours without loading	3 mins	Higher
26	Vehicle parked more than 50 cm from the edge of the carriageway	Instant	Higher

	and not within a designated parking place		
27	Parked adjacent to a dropped footway	Instant	Higher
30	Parked for longer than permitted	Instant *	Lower
40	Parked in a designated disabled person's parking place without clearly displaying a valid disabled person's badge	Instant	Higher
42	Parked in a parking place designated for police vehicles	Instant	Higher
45	Parked on a taxi rank	Instant	Higher
47	Stopped on a restricted bus stop or stand	Instant	Higher
48	Stopped in a restricted area outside a school	Instant	Higher
49	Parked wholly or partly on a cycle track	Instant	Higher
55	A commercial vehicle parked in a restricted street in contravention of an overnight waiting ban	Instant	Higher
56	Parked in contravention of a commercial vehicle waiting restriction	Instant	Higher
63	Parked with engine running where prohibited	Instant	Lower
99	Stopped in a pedestrian crossing and/or crossing area marked by zigzags	Instant	Higher

\* A grace period of 10 minutes is applied to both the expiry time of the pay and display ticket and to areas where waiting is restricted to a maximum permitted time.

\*\* a grace period of 10 minutes is applicable where a pay and display ticket has expired.

\*\*\* or other specified time as indicated by the associated signage.

\*\*\*\* unless evident that payment is being made ie, motorists at the machines or payment is not possible at the nearest machine and alternatives must be located



### OFF-STREET PARKING (CAR PARKS)

Code	Description	Obs Period	Differential Level
70	Parked in a loading area during restricted hours without reasonable excuse	3 mins	Higher
73	Parked without payment of the parking charge	Instant	Lower
74	Using a vehicle in a parking place in connection with the sale or offering or exposing for sale of goods when prohibited	Instant	Higher
80	Parked for longer than the maximum period permitted	Instant **	Lower
81	Parked in a restricted area in a car park	Instant	Higher
82	Parked after the expiry of paid for time	Instant *	Lower
83	Parked in a car park without clearly displaying a valid pay & display ticket or voucher or parking clock	Instant	Lower
84	Parked with additional payment made to extend the stay beyond time first purchased - <b>Civic Centre and Library Car Parks ONLY</b>	Instant	Lower
85	Parked in a permit bay without clearly displaying a valid permit	Instant	Higher
86	Parked beyond the bay markings	Instant	Lower
87	Parked in a disabled person's parking space without clearly displaying a valid disabled person's badge	Instant	Higher
89	Vehicle parked exceeds maximum weight and/or height and/or length permitted in the area	Instant	Higher
91	Parked in a car park or area not designated for that class of vehicle	Instant	Higher
92	Parked causing an obstruction	Instant	Higher
93	Parked in car park when closed	Instant	Lower
94	Parked in a pay & display car park without clearly displaying two**** valid pay and display tickets when required	Instant	Lower
95	Parked in a parking place for a purpose other than the designated purpose for the parking place	Instant	Lower
96	Parked with engine running where prohibited	Instant	Lower

- \* A grace period of 10 minutes is applied to both the expiry time of the pay and display ticket and to areas where waiting is restricted to a maximum permitted time.
- \*\* a grace period of 10 minutes is applicable where a pay and display ticket has expired.
- \*\*\* or other specified time as indicated by the associated signage.
- \*\*\*\* payment is required per bay ie, if a larger vehicle encroaches into a second parking bay. Payment is required for both bays.