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HOW TO CHALLENGE A PARKING TICKET

Parking tickets can be issued by official bodies, such as councils and the police, or private parking companies. It's crucial to know which applies, as they can look very similar but the appeals process is different.

Penalty Charge Notice (PCN) or Excess Charge Notice (ECN) from the council - these are issued on public land, such as contraventions that occur on high streets or council car parks.

Parking Charge Notice from landowners or private parking companies - these are issued on private land, such as contraventions in a supermarket car park.

Fixed Penalty Notice from the police - issued on red routes, white zig zags or where the police manage parking.

The parking ticket or letter will explain if it is from the council, a private parking company or the police. The aim of this guide is to help you consider the grounds for challenging tickets.

How to Appeal a Ticket Issued by the Council

Is the ticket unfair? Were there unclear signs? Fault with the technology? Mistake made by the parking attendant?

If you wish to challenge the ticket details of how to do this are usually found on the ticket itself.

You should not pay the fine if you are considering an appeal. Any payment will be considered an admission.

Write to the council
The ticket or letter should set out how to appeal. Usually, it will involve writing to the council either by post or online clearly explaining why you object. At this stage this is known as an informal appeal. It is free to do and even if rejected in the first instance you will still be given the opportunity to pay at the discounted rate. You will have 14 days to make an informal appeal from when you were given the notice, or 21 days if the ticket was sent to you by post.

Include any evidence you have, as this will help your argument. Your evidence should be 'contemporaneous', if possible, to truly reflect the situation when you got your ticket, so it is important to act as soon as possible. Any photographs taken from your mobile phone will be useful.

Grounds for appeal

When appealing to the council, if you are able to demonstrate any of the following the appeal may succeed:

Signs - were they wrong? This can occur or if the signs were not visible.

Human Error- Did the civil enforcement officer or warden get it wrong? This is where it is clear from the facts that they should not have issued a ticket, e.g. a blue badge was correctly displayed.

The traffic rules are wrong - For example, if the road markings do not adhere to the procedures laid down in the Traffic Regulation Order.

You did not own the vehicle at the time - You will need to submit evidence and submit copies of the receipt of sale, and proof that you notified the DVLA.

The council made an error on the ticket - If council have failed to include all the required information, such as on their tickets or 'Notice to Owner' letters.

The car was stolen - If so the ticket can be waived if you can prove it was stolen, e.g. it had been reported it to the police.

Overcharging - These usually depend on the type of enforcement system they are operating, so check the Councils website.

Things to consider as evidence:

Photographs - Any unclear signs? Poorly marked bays or lines. Also photograph where your car was, the parking meter and your ticket, plus anything else that might be relevant.

Correspondence - Keep everything you've been sent, and copies of any information you've sent off. Proof of mitigating circumstances: It's important to keep any relevant correspondence, such as receipts from a recovery company if you were broken down.

Witness statements - If anyone will corroborate your account, obtain their details and ask them to sign a statement - e.g. if it was impossible to see the signs or you were loading or unloading goods from your car and you stayed within the rules.

Mitigating Circumstances

Mitigating circumstances can also be considered, and may be agreed even where an individual does not have a legal case. They can include situations where you breached the terms of the parking regulations but had a reasonable 'excuse' for doing so. In other words the parking authority have legitimate grounds to issue a parking notice but on consideration of the facts have agreed to waive it. Please note there is no guarantee that mitigating circumstances will be accepted.
Examples of mitigating circumstances:

- Receiving a ticket while broken down,
- Dealing with an emergency or clearing an obstruction from the road,
- The onset of sudden illness preventing you from moving the car.
- You bought a ticket/had a permit purchased but it fell off the dashboard
- A recent bereavement
- Attending a funeral
- You were not notified of suspension of the bay

When making representation it is important to make sure that you include:

- the penalty notice number
- the date the ticket was issued
- your address
- your vehicle registration number

Send copies rather than originals in case they're lost in the post and you need to rely on these later. Send the documents by recorded delivery, unless completed online, so that you can maintain a record to prove when they arrived.

If your appeal is successful, you should obtain written confirmation that the PCN or ECN will be cancelled and you will not have to pay anything.

Informal appeal rejected?

If the informal appeal is rejected, you will be given the final opportunity to pay at the discounted rate. If you do not feel you have a strong case to challenge then now is the opportunity to pay. If you choose to continue and make formal representation then you will no longer have the opportunity to pay at the discounted rate.

You will receive notification if your appeal is rejected and you should receive a form called a 'notice to owner'. You will at this point have 28 days to make formal representations. This procedure is also free and the notice to owner will explain the process.

Formal appeal rejected?

When considering whether to appeal formally, it is important at this stage to take the time to review the circumstances and consider the strengths of your appeal, because as stated above you will now enter the territory where you will lose the opportunity to pay at the discounted rate.

If your formal appeal is rejected, then you will be sent a 'notice of rejection'. You then will be expected to pay the parking fine in full. With PCN's if you disagree with the Councils rejection then you can challenge further and escalate the matter to an independent adjudicator. You can submit your representation and evidence in writing. The notice of rejection will explain how to appeal to the independent tribunal.

There are four tribunals in the UK and the appeal can generally be done online. The four tribunals are;

- England and Wales (not London): Traffic Penalty Tribunal.
- London: The Environment and Traffic Adjudicators
- Scotland: Transport Appeals Tribunal' and link this to Transport Appeals Tribunal for Scotland - mygov.scot

Please note that sometimes parking contraventions can be dealt with by way of Excess Charge Notice (issued by some Councils). You cannot appeal an ECN any further so you should pay if the formal appeal is rejected.

These notices operate under criminal rather than civil law, so there are different rules for appealing.

Rejected by the Independent Tribunal?

You should pay your PCN if the independent tribunal rejects your appeal. If you do not pay, the council escalate the matter to court and you could end up being liable for the fine plus costs.

How to appeal a Parking Charge Notice issued on private land (including a private road)

It is important to not assume that is only the driver that is liable for a private parking ticket. In England and Wales, parking operators can pursue the vehicle's owner who could be liable for unpaid charges if they cannot ascertain the driver details and/or the owner has refused or is unable to name the driver.

It is important to first check that the company is a member of the Accredited Trade Association (ATA).

This can be confirmed by making enquiries and checking with:

British Parking Association - www.britishparking.co.uk. The BPA is the only professional association that represents the entire parking sector across the UK, they represent 710 member organisations in the parking and traffic management profession or

International Parking Community – www.theipc.info. The IPC is the equivalent of and a competitor to the BPA's Approved Operator Scheme (AOS).

Please note that if a company is not an ATA member, they cannot obtain the registered keepers details from the DVLA. The DVLA are not authorised to release details to an organisation which is not a member of an ATA. If not registered as an ATA member, the private parking companies can usually only chase for a parking ticket if you have disclosed your address.

If you get a ticket in the post from a non-ATA member, report them to the ICO (Information Commissioner's Office) because the company may have obtained the details unlawfully.

Under the Protection of Freedoms Act 2012 – it is the registered keeper who can be pursued in England and Wales. This means that the private parking company can pursue the keeper of the vehicle for the fine. However, if the keeper is sent the notice, they will be able to provide the details of the driver directly to the company. In Scotland there is no keeper liability, so in order for the company to take any Court action they would need to prove who the driver was, e.g. via photographs or CCTV.

Contact the parking company
If the company are an ATA member then check the process for a direct appeal.

This will be your informal appeal and must be considered before you make a formal appeal.

For suggestions of evidence of factors which may be taken into account, please refer to the details above.

If your informal appeal is rejected

You can appeal to an independent appeals service as above. It's free to do, so it's worth trying if you still think your ticket was unfair. They might see things differently to the parking company and agree that your ticket should be cancelled. They won't cancel a ticket because of an unexpected event, for example if you were delayed because you were feeling unwell.

The way to appeal will depend on whether the parking company that gave you the ticket is a member of the BPA or IPC approved operators scheme.

If they are BPA approved operators scheme then you will need to make a formal appeal to Parking on Private Land Appeals (POPLA). You usually have 28 days from when your informal appeal was rejected to make a formal appeal

If they're an IPC member, make a formal appeal to the Independent Appeals Service. You have 21 days to appeal if your ticket is from an IPC member. Make sure you include any evidence that will support your case.

Formal appeal rejected?

At this point you may consider whether to pay the parking ticket. If you don't, you will need to prepare to challenge the matter further in Court. The cost could go up to include Court fees. The private parking companies themselves will also need to make a commercial decision as to whether they incur costs in instructing a solicitor.

Debt Collectors
Failure to pay may result in the matter being referred to debt collectors. This is common practice for private parking firms, the debt collectors themselves cannot enforce the debt, although very often their letters can appear quite threatening. This means they cannot enter your premises, remove your goods or take your vehicle.

Court Action
There is a misconception that private parking firms don't enforce their fines through the Court. However, please note that they do and can escalate through the County Court, small claims track. So, if you do receive a County Court claim, do not ignore it! Ensure that you respond with your defence within the prescribed timescales. Failure to do this could result in the private parking company obtaining a judgement in default against you. If the judgement is not set aside or satisfied in full within the appropriate time frame, this could adversely affect your credit rating.

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