

Guidance notes for making an Appeal to The Traffic Penalty Tribunal

When a Notice of Rejection of Representations (NOR) has been issued by the Council, the registered owner/keeper can choose to either pay the Notice or make Appeal to an Independent Adjudicator at the Traffic Penalty Tribunal (TPT). It is not possible to pay the Penalty Notice and make an Appeal.

Details on how to appeal are provided in the Notice of Rejection.

The Appeal should be made within 28 days of the date of service of the Notice of Rejection (Date of service is deemed to be 2 working days after the Notice of Rejection was sent).

The Adjudicators are independent of the Council. Appeal Hearings can be by telephone or Video Hearing. It is also possible not to have a Hearing (e-Decision) and leave the Adjudicator to make decision based on the evidence submitted to them by the registered owner/keeper and the Council.

Adjudicator's decision is final and binding on both parties. Decisions are usually made after the Hearing, will be in writing and are usually sent by email or post. Neither party can Appeal the Adjudicator's decision. However, if it is felt that due process has not been followed, this can be challenged but, this would not change the decision made.

Below are the statutory grounds for appealing against a Penalty Charge Notice:

The Penalty exceeded the amount that applied in the circumstances

This means the Council have asked for more that they are entitled to under the relevant regulations. This is either £50 or £70 depending on what the penalty was issued for.

The contravention did not occur

for example;

- the signs and lines were wrong
- the events alleged did not happen
- the vehicle was entitled to park
- loading or unloading was taking place
- a passenger was boarding or alighting
- a valid disabled person's badge was displayed
- a valid pay and display ticket or permit was displayed

The relevant Traffic Regulation Order (TRO) is invalid

TROs are bylaws, created by councils, which specify parking restrictions and the conditions under which vehicles may park. This ground means the TRO was invalid or illegal.

There has been a procedural impropriety by the council

This means the council has not complied with the relevant regulations. For example:

- the Penalty Charge Notice or another document did not give the required information
- the council did not respond to a Informal Challenge or responded too late

A Penalty Charge Notice was sent by post because the Council say someone prevented the Civil Enforcement Officer (CEO) from putting it on the vehicle or handing it to the driver. But in fact, the CEO was not prevented from doing this

You did not own the vehicle when the alleged contravention occurred

for example

- you never owned it
- you sold it before or bought it after the date of the contravention – you should say what you know about the transaction including the new or former owner's name and address, if know
- it was under a long-term leasing arrangement that transfers 'keepership' from the registered keeper to the hirer

The owner is a vehicle hire firm

and:

- the vehicle was on hire under a qualifying hiring agreement, and
- the hirer had signed a statement of liability for any Penalty Charge Notice issued during the hire period
this ground applies only to formal hire agreements where the hirer has signed an agreement accepting liability for Penalty Charge Notices. The requirements are specific. You should provide the hire's name and address and a copy of the agreement.

The vehicle was taken without the owner's consent

This ground covers stolen vehicles and vehicles used without the owner's consent. It could apply, for example, to a vehicle taken by 'joyriders'. It does not generally apply to vehicles in the care of a garage or borrowed by a relative or friend. If possible, you should supply a crime reference number from the Police.

The penalty has already been paid

either:

- in full, or
- at the discount rate and in time

Mitigating circumstances

The Adjudicator cannot take into consideration or cancel a Penalty Notice based on mitigating circumstances.

Mitigating circumstances are where the vehicle was parked in contravention of the Off-Street Parking Order (rules and regulations) but, it is believed that other circumstances should be taken into consideration that led to the vehicle being parked in contravention.

However, if an Adjudicator feels there are compelling reasons why the Penalty Notice should not be paid, they may make a recommendation, to the Council, that they cancel the Penalty Notice. If the Council chooses not to cancel the Penalty Notice they must explain why in writing. The Adjudicator cannot rule that the Council must cancel a Penalty Charge based on mitigating circumstances.

Cost of making an Appeal

Costs are not normally awarded to either party. Costs may be awarded (although rarely) if the Adjudicator believes either party to be wholly unreasonable in their approach to the case or, as known in law as 'vexations' or 'frivolous'.

For further details go to the following link;

www.tpt.gov.uk