

BIRMINGHAM CITY COUNCIL

Moving Traffic Enforcement Discretion Policy

Version 1

Policies set out in this document provide guidance only.

Each case must be considered on its own merits, taking into account the compelling circumstances and the available evidence.

February 2026

Contents

1	Introduction	3
1.1	Purpose.....	3
1.2	Policy Objectives	3
1.3	Scope	3
2	Moving Traffic Enforcement Contraventions	3
2.1	Definition of a moving traffic contravention.....	3
2.2	Contraventions	4
2.3	Observing and Recording Contraventions.....	4
2.4	Charge Levels for Penalty Charge Notices.....	4
2.5	Discretion Policy Guidelines.....	4
3	The Statutory Grounds Upon Which Representations May Be Made	5
4	Compelling Reasons	8

1 INTRODUCTION

1.1 Purpose

This policy outlines Birmingham City Council's approach to assessing representations made against Penalty Charge Notices (PCNs) issued for moving traffic contraventions.

The guidance provided in this document is intended to support consistent decision-making; however, each case will be evaluated on its individual merits. Decisions will take into account the evidence available and any compelling circumstances that may justify the cancellation of a PCN.

1.2 Policy Objectives

The primary objectives of this policy are to ensure that representations against Penalty Charge Notices (PCNs) issued for moving traffic contraventions are considered fairly, consistently, and transparently. The policy provides a structured framework for assessing each case on its individual merits, taking into account the evidence provided and any compelling circumstances. It aims to support compliance with traffic regulations, maintain efficient traffic flow, protect public safety, and provide clear guidance to council officers in making evidence-based, accountable decisions.

1.3 Scope

This policy applies to all Penalty Charge Notices (PCNs) issued for moving traffic contraventions within the jurisdiction of Birmingham City Council. It covers the assessment of representations submitted by motorists, including those made by vehicle owners, hirers, or other parties acting on their behalf.

The policy applies to all staff responsible for reviewing and determining representations, providing a consistent framework to guide decision-making. While the guidance ensures consistency and transparency, each case will be considered individually, with decisions informed by the evidence available and any compelling circumstances relevant to the specific situation.

2 MOVING TRAFFIC CONTRAVENTIONS

2.1 Definition of Moving Traffic Contravention

A moving traffic contravention is where a motorist does not comply with a designated Traffic Regulation Order, which have been implemented to ensure the smooth operation of the road network, the safety of all road users and support the movement of public transport and emergency service vehicles. Examples of prohibited manoeuvres include:

- Making a banned turn / u-turn
- Travelling in the wrong direction on a one-way street
- Stopping within yellow box markings
- Contravening a proscribed weight restriction
- Driving in mandatory cycle and / or bus lanes
- Driving through 'Restricted access'
- Stopping on school 'Keep Clear' markings
- Stopping on 'Red routes'

2.2 Contraventions

A moving traffic contravention occurs when a vehicle undertakes a prohibited manoeuvre in contravention of the proscribed traffic regulation order signage and / or markings.

2.3 Observing and Recording Contraventions

When observing and capturing moving traffic contraventions the operator must bear the following in mind when deciding if a contravention has taken place:

- The prohibited manoeuvre is clearly identified by proscribed traffic regulation order signage and / or markings.
- The incident was not exempt under the TRO.
- There is no evidence of action being taken by a Police Officer in uniform on that section of road covered by the CCTV camera.

2.4 Charge Levels for Penalty Charge Notices

The level of penalty charge applicable to moving traffic enforcement is £70.00 (discounted to £35 if paid within 14 days beginning with the Date of Service. Please note the Date of Service has been calculated as being 2 working days after the date of positing.

2.5 Discretion Policy Guidelines

The policy guidelines in this document have been produced to help and inform members of the public who have received a Penalty Charge Notice for a moving traffic contravention.

This approach is consistent with current best practice and meets with the aspirations of the Traffic Penalty Tribunal and the Local Government Ombudsman. This document aims to provide clarity, consistency and transparency within the enforcement process.

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 not be fettered by being unduly formulaic.

The policies address the following:

- The statutory grounds upon which representations may be made
- Compelling reasons
- The acceptance or rejection of representations

It is important to recognise that each case is assessed on its individual merits and circumstances for moving traffic Enforcement cases. If a motorist is able to demonstrate that they fall within one of the exemptions referred to in the Traffic Regulation Order, the PCN will normally be cancelled. Alternatively, a PCN will normally be cancelled if a motorist is able to demonstrate to the Council that there were genuine compelling reasons.

This policy will be subject to ongoing review.

3 THE STATUTORY GROUNDS UPON WHICH REPRESENTATIONS MAY BE MADE

The Council's enforcement of moving traffic contraventions and consideration of representations is governed by the following key legislation:

The Road Traffic Regulation Act 1984

The Traffic Management Act 2004

The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022

The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022

Motorists who believe a penalty charge should not be paid may submit representations based on the statutory grounds set out below.

3.1 The Penalty Charge Notice was issued incorrectly because:

a. The alleged contravention did not occur

We may accept representations:

- If the motorist provides sufficient evidence to confirm that the vehicle cannot have been or was not at the location at the time of the contravention.
- Where there are other compelling reasons requiring the case to be assessed on its individual merits.

We may not accept representations:

- If the motorist does not provide sufficient evidence to confirm that the vehicle cannot have been or was not at the location at the time of the contravention.
- If there is no evidence or if the evidence presented does not support the claim or is inconclusive
- In the absence of other compelling reasons

b. The Penalty exceeded the relevant amount

We may accept representations:

- If the Penalty Charge Notice showed the incorrect amount of penalty charge

We may not accept representations:

- If the Penalty Charge Notice showed the correct amount of penalty charge

c. The circumstances leading to the issue of the PCN are subject to criminal proceedings or a Fixed Penalty Notice (FPN) has been issued.

We may accept representations:

- If confirmation is provided by the police that proceedings for a criminal offence in connection with the same incident have been instituted to prevent "double jeopardy".

We may not accept representations:

- In all other circumstances

3.2 I am not liable to pay the Penalty Charge Notice because:

a. I was not the owner/keeper of the vehicle at the time of the alleged contravention

We may accept representations:

- If the DVLA confirm the motorist was not the registered keeper at the time of the contravention.
- If the previous registered keeper provides satisfactory evidence that the motorist purchased or acquired the vehicle after the contravention or the subsequent registered keeper provides satisfactory evidence that the motorist sold or disposed of the vehicle before the contravention.

We may not accept representations:

- If the DVLA confirm the motorist was the registered keeper at the time of the contravention
- If the previous registered keeper provides satisfactory evidence that the motorist purchased or acquired the vehicle before the contravention, or the subsequent registered keeper provides satisfactory evidence that the motorist sold or disposed of the vehicle after the contravention.

b. We are a vehicle hire firm and the vehicle was being used by a hirer / lessee and the person hiring it had signed a statement of liability acknowledging their liability in respect of any penalty charge notice served in respect of any relevant road traffic contravention involving the vehicle during the currency of the hiring agreement.

We may accept representations:

- If the hire company are able to provide satisfactory evidence 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 who they hired the vehicle.
- If the hire company are able to supply the name and address of the trader and documentary evidence.

We may not accept representations:

- If the person named by the hire company as the person to whom they hired the vehicle, either does not exist, cannot be traced or denies responsibility for the contravention.
- If the vehicle was being used as a courtesy car without an agreement that had been signed to accept responsibility for Penalty Charge Notices issued.
- 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 the vehicle was hired.

3.3 At the time that the alleged contravention occurred, the vehicle in question was in the control of a person who did not have the consent of the owner. If the vehicle had been stolen please provide details of the Police crime reference number or insurance claim number.

We may accept representations:

- If the vehicle had been stolen, details of Police crime number or insurance claim number to be provided.

We may not accept representations:

- If unable to prove that the vehicle had been stolen.

3.4 The Council has made a procedural error when dealing with my case or the PCN.

We may accept representations:

- Where it is established that the enforcement authority has failed to observe a legal requirement imposed on it by the legislation in relation to the imposition or recovery of a penalty charge or other sums.
- Where it is established that the enforcement authority has taken any step, whether or not involving the service of a document and the purported service of a Charge Certificate, in advance of the time scale set out in the legislation.
- If a fixed penalty notice, as defined by Section 52 of the Road Traffic Offenders Act 1988, has been given in respect of that conduct, or the conduct constituting the contravention in respect of which the Penalty Charge Notice has been given is the subject of criminal proceedings; only likely to be the case on or near pedestrian crossings.

We may not accept representations:

- If it is established that the legislation has been fully and correctly observed by the enforcement authority.
- That service of all documents has taken place in compliance with relevant time scales.
- A fixed penalty notice has not been served.

4 COMPELLING REASONS

When assessing representations against a moving traffic Penalty Charge Notice (PCN), the Council may consider compelling reasons that justify discretion. Such circumstances are unique factors or situations that, while not qualifying under the specific statutory grounds, may warrant cancellation of a PCN.

Each case will be evaluated individually, taking into account the evidence provided, the context of the contravention, and any relevant mitigating factors. This ensures that enforcement is fair, proportionate, and consistent with both statutory requirements and the Council's commitment to reasonable discretion.

a. **To have been unaware of the existence of the prohibited manoeuvre, as it is not clearly signed or marked**

We may accept representations:

- If signs and/or markings were missing or unclear.
- If signs and/or markings were inconsistent with each other and/or the Traffic Order or legislation.
- Where there are other compelling reasons requiring the case to be assessed on its individual merits.

We may not accept representation if:

- If site visit records or photographs establish that signs and/or markings were correct and consistent with each other and the Traffic Order, at the time the contravention occurred.

b. **The details on the Penalty Charge Notice are incorrect**

We may accept representations:

- If there is reason to doubt that the Penalty Charge Notice was issued incorrectly, taking into account evidence provided by the Civil Enforcement Officer.

We may not accept representations:

- If the Penalty Charge Notice was correctly issued.

c. **Payment of the Penalty Charge Notice was made within the discounted period and formal documentation has been received advising the case is still outstanding**

We may accept representations:

- If it can be established from the frank date on the envelope that payment had been posted within the discounted period so as to arrive by the 21st day.
- If it can be established from records held that the payment was made within the discounted period.

- Where there are other compelling reasons requiring the case to be assessed on its individual merits.

We may not accept representations:

- If payment was declined or refused by the bank due to insufficient funds being available in the account and the 21-day discount period has expired.

d. The vehicle in question was on police, fire brigade or ambulance duties

We may accept representations:

- If a senior officer of the service concerned supports the representation and there is no reason to doubt that the vehicle was engaged on operational activities.
- Where there are other compelling reasons requiring the case to be assessed on its individual merits.

We may not accept representations:

- In all other circumstances.

e. The registered keeper liable for payment of the Penalty Charge Notice is said to have died

We may accept representations:

- Where the circumstances can be confirmed i.e. copy of a death certificate.
- Where there are other compelling reasons requiring the case to be assessed on its individual merits.

We may not accept representations:

- If there is reason to doubt the representation.

f. That snow, foliage, fallen leaves or flooding covered or obscured the signs or markings

We may accept representations:

- 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.
- Where there are other compelling reasons requiring the case to be assessed on its individual merits.

We may not accept representations:

- If it can be established that such conditions did not cause signs and markings to be obscured as claimed.
- If photographic evidence directly contradicts the motorist's version of events. If any reasonable alternative indication of the restriction was available to the motorist.

g. Other Compelling Reasons

- If there are any other compelling reasons which require the case to be assessed on its individual merits.
- The decision whether or not a Penalty Charge Notice should be cancelled, will only be taken following very careful consideration taking into account all of the evidence available.