



Specialist Debt Advice Service Spotlight

November 2018 edition



Shelter

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[Part 6 of the Traffic Management Act 2004](#) allows for the civil enforcement by a local authority for road traffic contraventions. [Section 78](#) of the act allows for the notification of a penalty charge (known as a Penalty Charge Notice (PCN)) in relation to the road traffic contravention.

But what if an enforcement agent (EA) knocks on your client's door demanding payment of an unpaid PCN and your client tells you this is the first they have been made aware of it.

Who is liable to pay the PCN

It is the owner of the vehicle who is ultimately liable to pay the PCN. For parking contraventions see [here](#), for bus lane contraventions see [here](#).

It is widely assumed that the registered keeper of the vehicle will be the owner, but this is not always the case. As PCN's are always sent to the registered keeper, the onus will be on them to prove they are not the owner of the vehicle.

What are your clients available options?

Your client can try to challenge the PCN and not to pay the EA, essentially not allowing entry into the home. However, in most cases a client is likely to have a vehicle, and this will be at risk of being taken into control. Where it is removed it cannot be sold for at least seven days allowing your client to act immediately to make their challenge. Where contact with the local authority is made, a common response from the issuing local authority is that the matter is no longer with them and client must liaise with the Traffic Enforcement Centre.

If your client moved address but failed to notify the [DVLA](#), (changing the address on the driving license is not sufficient) and the issuing authority wrote to the address provided by the DVLA who were unaware that the client moved, such a challenge is unlikely to be successful. If the vehicle the PCN relates to was sold, you should establish if, when and how the DVLA was notified as this could save you time.

Traffic Enforcement Centre (TEC)

The TEC will only deal with specific disputes and they have the power cancel the local authorities court order ending the enforcement process. There are specific forms issued by the TEC which will allow them to consider the clients dispute. These are:

- [Form PE2: Application to file a statutory declaration out of time](#)
- [Form PE3: Challenge an unpaid penalty charge notice & guidance notes](#)
- [Form TE7: Application to file a statement out of time / extension of time \(parking\)](#)
- [Form TE9: Witness Statement - Unpaid Penalty Charge \(parking\)](#)

(all forms including Dartford Tunnel and Vehicle Emissions can be found [here](#))

The PE2 and TE7 relate to out of time declarations which is what your client will need to complete as the debt is now with an EA. There are no time limits placed on submitting form PE2 or TE7. The TE9 and PE3 relate to the type of PCN your client will challenge. If the clients dispute is anything other than what is listed on the PE3/TE9 the form will be returned and client advised to contact the issuing authority.

For a moving traffic contravention such as driving in a bus lane, entering a yellow box junction when not permitted to do so and congestion charges you must use forms:

PE2

This form is essentially used to seek permission to appeal/challenge the PCN and justify why no appeal/challenge was made within the original time given. This could be due to a hospital stay, being in police/HM custody and/or was unaware the PCN existed. This form must be sworn before sending to the TEC. A solicitor, officer of the County Court or Justice of the Peace must witness the client signing the form and then stamp the form accordingly. There is no cost if the client makes an appointment at their local county court so an officer of that county court can be the Commissioner of Oath. When the form has been witnessed and signed it must accompany the PE3 to send to the TEC.

PE3

There are only three grounds on which the TEC will look into when a client appeals/challenges. If the dispute differs from one of these grounds such as the PCN has already been paid, then the client must liaise with the issuing authority. The onus will be on that authority to resolve the clients dispute. Any failings by the issuing authority to resolve the dispute should be complained about and escalated to the [Local Government Ombudsman](#) where possible.

Based on the scenario we have given; the client will be ticking the first box; *I did not receive the....*

The box titled 'My reasons are' is the clients opportunity to explain why they did not or could not have received the NtO, Enforcement Notice or PCN. As with the PE2 this must be sworn by a Commissioner of Oath.

For the sole purpose of challenging a parking contravention you must use forms:

TE7

This can have a dual purpose. For the scenario we have set the client will be making an out of time application. The other purpose for the form is to seek an extension of time (this is when you are appealing within the time frame but need more time e.g. to gather evidence).

Like the PE2, this form is essentially used to seek permission to appeal/challenge the PCN and justify why no appeal/challenge was made within the original time given. The TE7 must accompany the TE9. This form does not need to be sworn but the client will need to sign it; electronically if emailing or ink if posting.

TE9

Like the PE3, there are only specific disputes the TEC will explore. Based on the scenario we have set, your client will have either not received the PCN/NtO and or not dealt with correspondence received as payment was made (at the time the alleged contravention took place, e.g. purchased a parking ticket, or paid the PCN upon demand).

Unlike the PE3, there is no box or allocated space to expand on your reasons for the challenge. If the dispute does not relate to any of the four boxes on this form your client must liaise with the issuing authority. The TE9 does not need to be sworn, only signed by the client.

What happens next

When the TEC receives your clients PE2/3 or TE7/9 they will notify the issuing authority (they aim to do this on the same day its received or following working day at the latest) and give them 19 working days to either accept or reject the application. If the issuing authority accepts/or no reply the application, it will be treated as it was in time and the Court registration will be revoked and enforcement action must be cancelled (by the issuing authority). The matter is referred back to the issuing authority to decide what action they wish to take next.

If the issuing authority rejects the application, it will be referred to a Court Officer at the TEC for an impartial decision on whether the application should be granted or refused and all enforcement action in the meantime will be suspended. Both parties will be informed if the application is granted or refused.

If the Court Officer accepts the application, it will be treated as if it was in time and the Court registration will be revoked and enforcement action cancelled by the issuing authority. The matter is then referred back to the issuing authority to decide what action they may wish to take next.

Where the Court Officer refuses the application the client and the issuing authority will be notified accordingly. The Court Officer is not obliged to give their reason for refusal. At this stage the issuing authority can continue with their enforcement action. Should either the issuing authority or client disagree with the court officers decision, they may apply to the court to see if the decision can be reviewed. This is done using court form [N244](#) with the appropriate fee:

- No hearing and a District Judge to consider - £100.00
- Hearing at clients local court before a District Judge - £255.00

(fee remission may apply, requires court form [EX160](#) to apply)

Useful links

- National Debtline "[Penalty charge notices \(PCNs\) for parking](#)" fact sheet

- The Secretary of State's Statutory Guidance to Local Authorities on the [Civil Enforcement of Parking Contraventions](#)
- Traffic Enforcement Centre [contact](#) information