

Good Practice Guide

London Local Authorities Act 2007

Provisions on the Penalty Charge Notice in Relation to Littering From Vehicles

Revised Guidance December 2013

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Disclaimer: This Good Practice Guide has been produced to aid understanding of the new provisions in the London Local Authorities Act 2007 on Penalty Charge Notices in relation to littering from vehicles. It cannot be relied upon in place of the legislation. For any matters arising from the legislation, the legislation itself must be consulted.

1. Introduction

- 1.1. The London Local Authorities Act 2007 (the 2007 Act), as amended by the London Local Authorities Act 2012, introduced a new decriminalised enforcement regime in London in relation to littering from vehicles. It also contains a set of standard provisions that can be used for other enforcement activities, if future legislation permits.
- 1.2. Under the 2007 Act, London boroughs have the power to issue civil fines (penalty charge notices or PCNs) for littering from vehicles. Since 18 June 2012, London boroughs have been able to enforce PCNs served under the 2007 Act.
- 1.3. This is the first time that it has been possible to serve PCNs in respect of environmental breaches. As there is no precedent in this area, London Councils has produced this good practice guide, which has been developed in consultation with the London boroughs councils.
- 1.4. This guide covers PCNs issued under the 2007 Act for littering from vehicles. A separate guide has been produced in respect of waste receptacle related breaches. It should be noted that this guide has been produced to aid understanding of the new regime. It cannot be relied on in place of the legislation. For any matter arising from the legislation, the legislation itself must be consulted.
- 1.5. Since the 2007 Act came into force, littering from vehicles has been decriminalised in London and is only enforceable through the PCN route set out in the 2007 Act. It is not possible to issue a fixed penalty notice for littering from vehicles.

2. Advantages of the PCN regime

- 2.1. One of the factors for introducing a PCN regime to enforce low- level anti-social behaviour is the cost to the local authority. Costs become an issue when Fixed Penalty Notices (FPNs) are unpaid or the offender chooses to go to court rather than discharge his liability by paying the fixed penalty. The costs for a local authority to prepare a case for the magistrates' court are far higher than using the appeals system that is available in respect of PCNs.
- 2.2. The key point to remember is that the use of FPNs or PCNs as an enforcement option is ultimately about getting people to change their behaviour and to stop the anti-social activity. For the majority of people receiving a PCN or FPN, it is likely they will not differentiate between the two and see both as a fine to be paid.

<p>Old regime*: Fixed Penalty Notice (FPN)</p> <p><i>*This option is not available now</i></p>	<p>Under the fixed penalty notice regime, the offender would have had to be identified.</p>
<p>New regime: Penalty Charge Notice (PCN)</p>	<p>There is no need to identify the person discarding litter from inside the vehicle as the owner* of the vehicle is held responsible.</p> <p><i>*presumed to be the registered keeper</i></p>

- 2.3. As with any enforcement regime being used for the first time, local authorities should allow for a well-publicised lead-in period before any notices are issued.
- 2.4. Local authorities should also develop a communications strategy to raise public awareness of the new powers. This will help to manage public expectations of what the new powers can achieve and might also gain public support for the new regime.

3. Background to the PCN regime

- 3.1. The London borough councils already have the power to serve PCNs in respect of certain offences which have been decriminalised. For instance, under the Traffic Management Act 2004, PCNs can be served for parking contraventions, under the Local Authorities Act 1996 for bus lane contraventions and under the London Local Authorities and Transport for London Act 2003 for certain moving traffic contraventions.
- 3.2. As mentioned, the 2007 Act contains provisions which enable the making of penalty charges for waste receptacles and littering from vehicles. It also makes provision for future legislation providing more opportunities for enforcement by PCN.
- 3.3. The procedure for penalty charges under the 2007 Act, and in future legislation, is set out in sections 61 to 67.
- 3.4. Under section 61 of the 2007 Act, where a borough council have reason to believe that a penalty charge is payable to them, they may serve a PCN on a person who seems to be the appropriate recipient. The section also sets out the information which must be included in a PCN.
- 3.5. Section 62 allows the Lord Chancellor to make regulations entitling persons to make representations to councils and appeals to adjudicators in respect of penalty charges under section 61.
- 3.6. Section 63 makes provision about the appointment of adjudicators to hear appeals in relation to penalty charges. It also sets out the requirements which must be met by adjudicators appointed under the section.
- 3.7. Section 64 enables the Lord Chancellor to make regulations for or in connection with the enforcement of penalty charges. Such regulations may make provision for offences and may also make provision in relation to warrants of execution to be executed by certificated bailiffs. Regulations have now been made under this section (and section 82), namely the Penalty Charges Enforcement (London) Regulations 2012 (SI 2012/1234).

- 3.8. Section 65 makes provision about certificated bailiffs, and in particular about their authorisation, and the conditions which must be met before bailiffs are certificated under Section 65.
- 3.9. Section 66 makes provision for the setting of the levels of penalty charges payable under Part 4.
- 3.10. Section 67 sets out reserve powers of the Secretary of State in cases where he believes the levels of penalty charges have been set too high by the Council. In such cases, he may make an objection, and the levels of fixed penalties may not come into force unless or until his objection has been withdrawn.
- 3.11. Section 24 of the 2007 Act, which concerns littering from vehicles, is a penalty charge provision.
- 3.12. By virtue of section 24 a penalty charge is payable to a borough council with respect to a motor vehicle or a pedicab by the owner of the motor vehicle or pedicab if a person inside or on board throws litters from that vehicle.

4. How to use the powers under Section 24 (littering from vehicles)

- 4.1. Section 24 concerns littering from vehicles. It enables a London borough council to serve a PCN on the owner of a vehicle in cases where the council has reason to believe that a littering offence under section 87 of the Environmental Protection Act 1990 has been committed by a person inside the vehicle.
- 4.2. Section 24 decriminalises that offence and provides that the owner of a vehicle is liable for the charge. The owner of the vehicle is presumed to be the registered keeper at the DVLA (section 24(11)).
- 4.3. Owners of public service vehicles, taxis and private hire vehicles are all exempt from penalty charges under the section where the person acting in contravention is a passenger (section 24(3)).
- 4.4. Part 4 of the 2007 Act makes general provision about representations against PCNs and appeals to adjudicators.
- 4.5. Grounds on which representations can be made in respect of the PCN are set out in subsection (6) and include the grounds that the person who received the PCN never was the owner of the vehicle, that there was no contravention of section 87 and that the recipient was a vehicle hire firm. These are set out in full in section 8.3 (Grounds for representations against a PCN served in circumstances where someone has littered from a vehicle) below.

5. Contents of PCNs

- 5.1. Section 61 sets out details which must be included in PCNs. A PCN must –
 - State the grounds on which the council believe the penalty charge is payable;
 - State the amount if the penalty charge which is payable;
 - State that the penalty charge must be paid before the end of the period of 28 days beginning with the date of the notice;
 - State that if the penalty charge is paid before the end of that period of 14 days beginning with the date of the PCN, the amount of the penalty charge will be reduced by the specified proportion;
 - State that if the penalty charge is not paid before the end of the 28 day period, an increased charge may be payable;

- State the amount of the increased charge;
- State the address to which the payment of the penalty charge must be sent;
- State that the person on whom the PCN is served may be entitled to make representations under section 62(1) (representations and appeals) of the 2007 Act; and
- Specify the form in which any such representations are to be made.

5.2. In addition, s. 61 enables the Secretary of State to prescribe additional matters which must be included in a PCN and the time within which a PCN must be served.

Additional details to be collected for a PCN issued in respect of a breach under section 24 (littering from vehicles)

5.3. In addition, in respect of PCNs concerning littering from vehicles, it would best practice to include –

- Name of enforcement authority
- Date of notice
- Vehicle registration number (from number plates)
- Location (e.g. the full name of the street)
- Date and time(s) of contravention
- Photographic evidence, if possible
- Contravention code and description
- Unique PCN number
- How to pay (methods of payment)
- Address for payment / correspondence
- Vehicle location description (e.g. position in street)
- Make of vehicle
- Colour of vehicle
- Vehicle excise licence (tax disc) number.

5.4. A template form of notice is included at [Appendix A](#) of this guide.

6. Service of Notices

6.1. At all stages it is essential that the enforcement authority takes all reasonable steps to ensure that the appropriate notices are served on the person to whom they are addressed. If the enforcement authority believes that service has not taken place then enforcement action cannot proceed. It is therefore important to have procedures in place for dealing with returned (undelivered) post as such items have not been served.

6.2. It is recognised that there will be cases where service is not easy. These include cases where service is refused or where the vehicle owner cannot be identified. Where service is denied or refused, the enforcing authority should consider taking other steps, such as hand delivery, to give a higher degree of likelihood of service.

6.3. At the end of the day, some vehicle owners cannot be traced. In these circumstances the enforcing authority may have to consider writing off the penalty.

PCN issued under Section 24 (littering from vehicles)

- 6.4. Where littering from a vehicle has been observed, and the vehicle's registration number has been noted, a PCN for this offence may be served by post to the owner of the vehicle.
- 6.5. The local authority will normally contact the Driving and Vehicle Licencing Agency (DVLA) for information on the owner, but where the DVLA does not have that information other sources of information may help.
- 6.6. Like the parking and bus lane regimes, the 2007 Act only makes the registered keeper the presumed owner. If the enforcing authority has better information, it can be used, but the DVLA will most likely be the first port of call. Information may come from, for example, residents' parking permit applications, bailiffs or Companies House (subject to any data protection limitations). Councils should use all available avenues to an owner, while taking care not to enforce against an innocent party, bearing in mind the possibility of a vehicle being cloned or something similar.

7. Payment

Borough provision

- 7.1. An extensive range of payment options, by which penalty charges can easily be paid, will serve the best interests of local authorities and PCN recipients.
- 7.2. If possible, authorities should provide a number of payment centres distributed throughout their catchment area, and these should be open for as long and on as many days as possible. Likewise the opportunity for telephone and online payments should be available for as long and on as many days as possible.
- 7.3. Obviously when siting payment centres due consideration must be given to accessibility and to the safety and security of staff and customers both inside and in the immediate vicinity of the centre. Observance by CCTV video cameras should be considered.
- 7.4. Where the person served with a PCN makes a payment and representations against the PCN at the same time, the cheque may be held pending the outcome of the representations and appeals procedure.
- 7.5. If the representation or the appeal succeeds and a payment has been held by the enforcing authority, the payment will need to be returned. It is important that the money is returned as quickly as possible, ideally with a letter/Notice of Acceptance of the representations made advising that a refund is due. Refunds should take place within 28 days of a decision informing the recipient of this.
- 7.6. Although there is a limit on the time during which payment of PCNs can be made at the discounted rate, allowances may be made for exceptional circumstances (e.g. unforeseeable delays due to breakdown in postal service).

Methods of payment

- 7.7. In order to make payment as accessible as possible, authorities should ensure that facilities are in place for the following methods of payment for the settlement of PCNs
 - Cash in person
 - Personal & company cheques in person and by post*
 - Sterling travellers' cheques in person

- Debit & credit cards by electronic terminal in person or by telephone (including using automated phone payment systems)**
- Debit & credit cards by post or online**

* In normal circumstances, personal cheques should only be accepted to the limit of a supporting guarantee card. Unsupported personal cheques and company cheques should normally only be accepted if the authority can be confident that they will be honoured. Any policies relating to this should be made clear at payment points.

** Local authorities may not add a surcharge for credit/debit card payments.

8. Representations

- 8.1. It is important to have a good quantity of high quality data readily available to staff who are considering representations against the PCNs. This means staff should have ready access to all original PCN data, any photos, enforcement authority notes, updated owner details and any other relevant information which could help them.
- 8.2. Similarly, this information should be readily available to those dealing with cases which are subject to an appeal to an adjudicator, so the information can be easily supplied to the adjudicator.
- 8.3. It is important for an enforcing authority to ensure that there are sufficient resources to deal promptly with any complaints, queries and formal representations, and that all enforcement, ticket processing and customer care staff are well trained in customer care and possess a good knowledge of the legislation.
- 8.4. If the systems, procedures and working practices set up by the authorities to check (and if appropriate, cancel) contested PCNs are efficient, reliable and consistent, the proportion of PCNs which result in an appeal to the adjudicator should be small. In contrast, if the data supplied is unreliable and a large number of PCNs are dismissed on technical grounds (e.g. invalid PCN) both the adjudicator and the public will lose confidence in the authorities' operation with a consequent increase in the proportion of PCNs being contested and taken to, and cancelled by, the adjudicator.

Reasons for cancelling PCNs

- 8.5. An enforcing authority is under a duty to consider all representations made and any supporting evidence provided in response to a PCN. Notice of a decision to accept (or reject) representations made should be given to the person making the representation. A PCN must always be cancelled when satisfactory evidence is produced to support any of the statutory grounds for making representations.
- 8.6. In addition, enforcing authorities can always exercise discretion and consider cancelling PCNs under other circumstances.

Hired vehicles

- 8.7. Under section 24(6)(d) of the 2007 Act, it is possible for a recipient of a PCN which is a vehicle hire firm to make representations against a PCN for littering from vehicles. The relevant ground is that when the PCN was issued:

- the vehicle was hired under a vehicle hiring agreement; and
- the person hiring it had signed a statement assuming liability in respect of any PCNs issued during the currency of the agreement.

8.8. Under these circumstances, if a PCN has been issued to the vehicle-hire firm, this should be cancelled and a new PCN issued to the person hiring the vehicle who is deemed to be its owner for the purposes of the PCN (see section 24(9)).

8.9. The vehicle-hire firm making representations in response to the PCN will need to provide satisfactory evidence in support and this is likely to require the name and address of the hirer and a copy of the hire agreement.

8.10. A template Notice of Acceptance letter is attached at [Appendix B](#) of this guide.

Statutory representations

8.11. A local authority may disregard any representations that are made outside the period of 28 days beginning with the date of service of the PCN; however, authorities have the discretion to accept late representations and should do so when the person being charged gives a valid reason for the delay and has strong grounds for representations.

8.12. The people considering statutory representations should be independent of PCN issuing staff¹ and the function of considering these representations should not be contracted out. There are statutory grounds for representations that can be made to an enforcing authority. Authorities are not constrained to these grounds and may exercise discretion as to whether or not to cancel PCNs on other grounds and it is important that authorities exercise their discretionary powers responsibly and reasonably.

8.13. Representations should only be accepted in writing, in order to avoid confusion, and should contain the name, address and signature of the person making them. If representations are made electronically by email, or online, the name of the person making them is likely to be in the message header or in the message and can be taken to be a signature. In such cases it is advisable to validate the message content (e.g. by sending an acknowledgement of receipt containing a copy of the original message) so no later changes to the representations can be made.

8.14. If the authority rejects their representations, the PCN recipient may appeal to the adjudicator.

Grounds for representations against a PCN served in circumstances where someone has littered from a vehicle

8.15. The relevant grounds for representations against a PCN served where someone has littered from a vehicle are set out in section 24(6) of the 2007 Act. The grounds are:

(a) that the recipient-

- i) never was the owner of the vehicle in question;
- ii) had ceased to be its owner before the date on which the penalty charge was alleged to have become payable; or
- iii) became its owner after that date;

(b) that no person inside the vehicle acted in contravention of section 87 of the Environmental Protection Act 1990 (i.e. by littering from the vehicle);

¹ People from the same team as PCN issuing staff may consider representations, such as managers, but they should not be issuing PCNs themselves

- (c) that at the time the alleged contravention took place the person who was in control of the vehicle was in control of the vehicle without the consent of the owner;
- (d) (except in the case of a pedicab) that the recipient is a vehicle-hire firm and-
 - i) the vehicle in question was at the material time hired from that firm under a vehicle hiring agreement; and
 - ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty notice issued in respect of the vehicle during the currency of the hiring agreement; or
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case.

Results of representations

- 8.16. The Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 (“the Appeals Regulations”) (SI 2000/3482) apply in relation to representations, appeals and adjudicators (see section 62(9) of the 2007 Act).
- 8.17. A local authority must serve its response to any representations within 56 days of receiving them. If this deadline is not achieved then the authority is deemed to have accepted the grounds relied on in the representations. In these circumstances, the PCN must be cancelled (see, for instance, Regulation 5(2) and 5(5)) of the Appeals Regulations.
- 8.18. If representations are not accepted the authority must issue a “Notice of Rejection” which must:
- State that a Charge Certificate may be served unless before the end of the period of 28 days beginning with the date of service of the Notice of Rejection the penalty charge is paid or the person on whom the notice is served appeals to an adjudicator against the penalty charge;
 - Indicate the nature of an adjudicator’s power to award costs; and
 - Describe in general terms the form and manner in which an appeal to an adjudicator must be made.
 - The Notice of Rejection may also contain such other information as the enforcement authority considers appropriate (see, for instance, Regulation 6).
- 8.19. The Notice of Rejection should explain that the representations have not been accepted and should not be, or appear to be, in any way be bullying or threatening.
- 8.20. As part of good practice, an appeal application form should be included with each Notice of Rejection. This is important even when the enforcing authority does not believe that the PCN recipient is seeking to establish a genuine ground of appeal as it allows the appellant to attempt to establish a ground at appeal. As requested by the Parking and Traffic Appeals Service (PATAS), and to assist in processing the appeal, the “official use” box on the back of the appeal application form should be completed with:
- the name of the person that the Notice of Rejection was sent to;
 - the relevant PCN number(s);
 - the vehicle registration number, and
 - the date of the Notice of Rejection
- 8.21. If representations have been rejected for being served out of time, it is not necessary to send an appeal form or explain the appeal process.
- 8.22. Appeals should be made to the adjudicator within 28 days of service of the Notice of Rejection but the adjudicator has discretion to accept appeals out of time. Authorities will be informed in appropriate

cases, and if an appeal has been accepted out of time, should take steps to cancel any Charge Certificate that may have been issued.

- 8.23. When a PCN recipient has made representations or an appeal but accepts either the authority's or, at a later stage, the adjudicator's decision that payment is due and then pays within 14 days of that decision, the legislation does not require the enforcing authority to apply the statutory discount to the payment, and normally an authority would not be expected to do so. Authorities could, however, decide to do so in a few exceptional cases, or on the recommendation of the adjudicator.
- 8.24. A template Notice of Rejection letter is included at [Appendix C](#) of this guide.

Elected members and representations

- 8.25. Elected members may wish to review their representations policies, particularly where they concern the exercise of the enforcing authority's discretion, to ensure consistency with published policies. However, elected members and unauthorised staff should not, under any circumstances, play a part in deciding the outcome of individual representations. This is to ensure that only fully trained staff makes decisions on the facts presented. The authority's standing orders should be specific as to which officers have the authority to consider representations concerning, and/or make decisions on PCNs. There should also be a clear audit trail of decisions taken with reasons given for those decisions.

9. Appeals

- 9.1. The Schedule to the Appeals Regulations provides the procedure in adjudication proceedings. While enforcing authorities may send a representative to an appeal, the system has been developed so that, in most cases, an enforcing authority will send documentary evidence without the need for a representative to attend.
- 9.2. Authorities need to provide sufficient evidence to prove their case and so have to consider what is necessary in each particular case.
- 9.3. PATAS has produced a practice manual for enforcing authorities called Parking and Traffic Adjudicators at the Parking and Traffic Appeals Service - Practice Manual for London Enforcement Authorities. It includes details of appeal procedures and can be found at:
<http://www.patas.gov.uk/tmaadjudicators/manual.htm>.
- (It should be noted that this manual is for parking appeals. While it may provide guidance for littering from vehicles, it should not be relied upon. For any questions, authorities should contact PATAS: patas.team@patas.gov.uk or telephone 020 7520 7200)
- 9.4. PATAS sends daily reports to authorities listing new appeals, outcomes of appeals, and details of out-of-time appeals.
- 9.5. Authorities must make sure that all necessary information is supplied to PATAS as soon as possible after it is requested and always by the set deadlines. They should also ensure that all information and documentation sent to PATAS is also copied to the appellant, ensuring that it will reach the appellant at least three clear days before the scheduled hearing date. Similarly they should receive from PATAS a copy of any information or documentation submitted by the appellant.
- 9.6. In London, the adjudication centre is equipped with payment facilities. If the enforcing authority has

signed up to the Payment Information Exchange system then details of the payment, together with the payment itself, will be passed through.

- 9.7. Decisions made by adjudicators should normally be considered as final and any directions given by adjudicators must be complied with immediately. Although the Appeals Regulations do allow for reviews of decisions to be requested, the grounds for these are limited and include:
- The decision was wrongly made because of an administrative error;
 - A party failed to appear or be represented at a hearing for some good reason;
 - There is new evidence and the existence of this could not have been reasonably known of or foreseen before the decision;
 - The interests of justice require a review (see paragraph 12 of the Schedule to the Appeals Regulations).
- 9.8. It should be noted that an adjudicator's findings of fact are normally regarded as final and will only be overturned if they are plainly incompatible with the evidence that was before the adjudicator. The mere fact that a party disagrees with these findings is not a ground for review.
- 9.9. Should an appellant send an appeal to an enforcing authority by mistake, it should be forwarded immediately to PATAS.

10. Charge Certificates

- 10.1. The Penalty Charges Enforcement (London) Regulations 2012 ("the 2012 Regulations") make provision about the enforcement by London borough councils of penalty charge notices under Part 4 of the 2007 Act. They should be read in conjunction with the Appeals Regulations.
- 10.2. Where a PCN has not been paid before the end of the "relevant period", the enforcing authority may serve on the recipient a Charge Certificate, which is the formal notification that the penalty charge in question has been increased by "the application surcharge" (Regulation 3(1)) of the 2012 Regulations.
- 10.3. The "relevant period" (as described in regulation 3(2) and (3) of the 2012 Regulations) is:
- If no representations have been made to the authority, the "relevant period" is 28 days beginning with the date on which the PCN is served (a period of 35 days is recommended);
 - If representations are made, a Notice of Rejection is served by the borough council and no appeal against the notice is made, the "relevant period" is 28 days beginning with the date of which the Notice of Rejection is served (again a period of 35 days is recommended);
 - If representations are made, a Notice of Rejection is served by the borough council, an appeal against the Notice of Rejection is made, and the adjudicator does not allow the appeal, but recommends the council to cancel the PCN, the "relevant period" is 28 days beginning with the date on which the council notifies the appellant that it does not accept the recommendation; (again a period of 35 days is recommended);
 - If representations are made, a Notice of Rejection is served by the borough council and an unsuccessful appeal against the Notice of Rejection is made, the "relevant period" is 28 days beginning with the date on which the adjudicator's decision is served on the appellant (again a period of 35 days is recommended).
 - If an appeal against a Notice of Rejection is made and withdrawn before the adjudicator serves Notice of the Decision, the "relevant period" is the period of 14 days beginning with the date on which the appeal is withdrawn.

- 10.4. So, for instance, if representations have not been made or have not been successful, any part payment received within the timescales above may result in a Charge Certificate requesting the outstanding balance. The penalty charge cannot be increased until the Charge Certificate is issued.
- 10.5. If a person contacts an enforcing authority and says that the Charge Certificate is the first notice they have received of the alleged contravention, the authority should consider allowing the recipient to make payment of either the reduced or the full penalty charge (without the Charge Certificate increase) or make representations, upon receipt of which the Charge Certificate should be cancelled.
- 10.6. If a person served with a PCN makes a representation to the enforcing authority that the PCN has not been properly served and the authority rejects that representation, the authority must then serve a Notice of Rejection on that person. The Notice of Rejection must describe the form and manner in which an appeal to an adjudicator must be made. In practice, an appeal form² will be enclosed with the Notice of Rejection.
- 10.7. If the enforcing authority chooses not to accept representations from the person on the ground that the PCN was not properly served, for example where a PCN recipient frequently makes this claim, they should explain the procedure for making a witness statement at the next stage of the process.
- 10.8. A template Charge Certificate for s.24 breaches is included as [Appendix D](#) of this guide.

11. Debt recovery

- 11.1. Sections 4 and 5 of the 2012 regulations provide that where a Charge Certificate remains unpaid after 14 days from the date of service, an (enforcing authority may register the charge as a debt at the county court. A fee of £5 is charged for the registration, which is added to the amount of the penalty charge payable and an Order for Recovery is issued.
- 11.2. Once the court makes an order, the person against whom it is made has 21 days from the date of service of the court order in which to either pay the outstanding charge or make a witness statement on the following grounds, that either:
 - the PCN in question was not received; or
 - representations were made to the enforcing authority concerned but no Notice of Rejection was received;
 - an appeal was made to an adjudicator against a Notice of Rejection but (i) no response to the appeal was received, or (ii) or (ii) the appeal had not been determined by the time the Charge Certificate was served, or (iii) the appeal was determined in the person's favour or
 - the person has paid the penalty charge in question.
- 11.3. If the court accepts the witness statement, the Order for Recovery and the Charge Certificate will be cancelled. In case a) above, the PCN will also be cancelled, and the enforcing authority may then issue a new PCN to the same person. In cases b), c) and d), the PCN is not cancelled and the authority must pass the details to the adjudicator for a decision. As with an appeal case, the adjudicator's decision is final.
- 11.4. If a witness statement is not made within the 21 day time period, the authority may apply to the court for a warrant of execution.

² For a copy of the appeal form, contact patas.team@patas.gov.uk or telephone 020 7520 7200

Bailiffs

- 11.5. If the PCN recipient has failed to pay the monies owed to an enforcing authority, then that debt may be recovered by way of a warrant of execution. The legislation provides for use of certificated bailiffs, rather than ordinary county court bailiffs, to pursue such execution.
- 11.6. Warrants are issued for one year. While they are in place, other forms of debt recovery must not be used directly by the enforcing authority.
- 11.7. In January 2012, the Ministry of Justice revised the National Standards for Enforcement Agents. In future, every member of a bailiffs' firm will have to be certificated. It will be for the enforcing authorities themselves to enter into arrangements for using such bailiffs, whether in-house or contracted out. It will not be for the county court to make these arrangements.

APPENDIX A – Form of Notice*

[Enforcement Authority Name]

PENALTY CHARGE NOTICE (PCN)

London Local Authorities Act 2007 Sections 24 and 61:
Littering from vehicles

PCN Number:

Date of this Notice:

Vehicle Registration Number:

Make:

The <London Borough> believes that a penalty charge is payable on the following grounds:

[Contravention code] – [Contravention description]

Location: [Detailed contravention location]

Date of Contravention: [Contravention date]

Time: [Contravention time]

The penalty charge is £100

The penalty charge must be paid before the end of the period of 28 days beginning with the date of this notice.

A reduced charge of £60 is payable in the following circumstances:

If the penalty charge is paid before the end of the period of 14 days beginning with the date of this notice, the amount of the penalty charge will be reduced by [40% to £60].

HOW TO PAY

You may pay this penalty charge online, by telephone, by post or in person. Full details on these methods of payment can be found on the detachable payment slip.

Please make cheques and postal orders payable to [payee details], and write the PCN number and vehicle registration number on the back. Please do not send post-dated cheques, as they will not be accepted.

Please do not make any payment if you want to challenge this PCN.

Data Protection Statement

The [Enforcement authority name] will use information, including personal information, collected through the issuing of this Penalty Charge Notice for the enforcement of other contraventions and it may also be used for compatible purposes. The information may be disclosed to London Councils, other enforcement agencies and third parties where it is necessary and lawful to do so e.g. for the prevention and detection of crime. All information will be processed in accordance with the Data Protection Act 1998.

*If you would like to request a Microsoft Word version of this sample document please email: info@londoncouncils.gov.uk

HOW TO MAKE A REPRESENTATION

You may make representations to us against the imposition of the penalty charge in this PCN. Representations may be made online at [webpage], by email to [email address], by fax to [fax number] or by post to [correspondence address]. You may wish to use the form attached to this notice. Please include any available supporting evidence. Representations must include the name, postal address and signature of the person making them. If representations are made online or by email then the name of the person making them must be in the message header or main body text, and will be taken to be the signature of that person.

The authority may disregard any representations received outside the period of 28 days beginning with the date of service of the PCN.

The statutory grounds for making representations are listed below. Whether or not any of the statutory grounds apply, you may also give other compelling reasons why we should cancel the penalty charge or refund any sum paid on account of the penalty charge. The statutory grounds for representation are that:

- (a) You-
 - (i) Were never the owner of the vehicle in question,
 - (ii) Had ceased to be the owner before the date on which the penalty charge was alleged to have become payable; or
 - (iii) Became its owner after that date;
- (b) No person inside the vehicle acted in contravention of the said section 87
- (c) That at the time the alleged contravention took place the person who was in control of the vehicle was in control of the vehicle without the consent of the owner;
- (d) You are a vehicle-hire firm and-
 - (i) The vehicle in question was on hire under a hiring agreement at the time of the contravention, and
 - (ii) The person hiring the vehicle had signed a statement of liability in respect of any penalty charge notice issued in respect of the vehicle during the period of the hire agreement; or
- (e) The penalty charge exceeds the amount applicable in the circumstances of the case.

If you are making representations to the effect that you acquired the vehicle after the date of the alleged contravention, or ceased to be the owner of the vehicle before that date, then your representations must include the name and address of the person from whom you acquired the vehicle, or to whom you disposed of it, if you have that information.

If you are a hire firm and are making representations to the effect that the vehicle was on hire at the time of the alleged contravention then your representations must include the statement of liability signed by the person hiring it

A person who knowingly or recklessly makes a false representation regarding a material fact is guilty of an offence and on summary conviction may be liable for a fine of up to £5,000.

We will consider your representations and any supporting evidence, and serve a notice on you of our decision, within the period of 56 days beginning with the date on which we receive your representations, except where we have decided to disregard your representations by reason of their being received after the end of the period of 28 days beginning with the date of service of this PCN. If we accept your representations, we will cancel this PCN and you will not have to pay the penalty charge. If you have made representations within the period of 28 days beginning with the date on which this PCN is served, or if you have made representations outside that period but we have not disregarded them, and we do not accept those representations, you will receive a Notice of Rejection. This will state, amongst other things, that you may appeal against the Notice of Rejection to an adjudicator and it will give information about the time limits for appealing to an adjudicator.

If the penalty charge is not paid before the end of the [period of 28 days beginning with the date of this notice], an increased charge by 100% to £[increased amount] may be payable.

At the end of this PCN you will find a form which you may find helpful as a means of making representations. However, you do not need to use it and you may make representations in any of the ways set out above.

HOW TO PAY

BY TELEPHONE: On [Payment phone number] between [times] on [days] using one of the debit or credit cards listed on the payment slip.

BY INTERNET: Go to [website address] and follow the online instructions.

BY POST: Complete the payment slip and return to [payment address] with either:

- a cheque or postal order payable to [payee details] or
- your payment or card payment authorisation

All cheques and postal orders must have the PCN number and vehicle registration number written on the back. Please send a stamped self-addressed envelope if you would like a receipt.

Any other form of payment, including cash, will not be accepted.

IN PERSON: Complete the payment slip and bring it with your PCN and payment to [payment centre address(es)] between [times] on [days]. Payment can be made either by cheque, postal order, credit or debit card or in cash. **If you pay by cash, please ensure that you obtain a receipt.**

Please do not make any payment if you want to challenge this PCN

Payment slip- Please return with all payments sent by post or made in person. Penalty

Charge Notice number: [PCN number]

VRM: [VRM]

Date of Notice: [Date of notice]

Time served: [issue time]

The full penalty charge is £[full amount]. A reduced charge of £[reduced amount] is payable if paid before the end of the period of 14 days beginning with the date of this notice.

Mr/Mrs/Ms/Miss: _____

Address: _____

Postcode: _____

Only complete the details below if you are making payment by credit or debit card.

Please debit my MasterCard / Visa / Maestro / Delta (delete as appropriate):-

Card Number: ____/____/____/____ Amount: £____ Date: _____

Card Issue Date: __/__/__ Card expiry date: __/__/__ Issue number: ____

Name of Cardholder: _____ Signature of Cardholder: _____

MAKING REPRESENTATIONS

You may find the following form helpful as a means of making representations. However, you do not need to use it and you may make representations in any of the ways set out above.

If you think any of the grounds below applies, please indicate which by ticking the relevant box or boxes. In all cases, please give details in the space provided.

- The alleged contravention did not occur. – *Please explain why you think no contravention took place*
- I never was the owner of the vehicle or I was not the owner of the vehicle at the time of the alleged contravention or I became its owner after that date. – *Where you ceased to be the owner of the vehicle before the date of the alleged contravention, you must include a statement of the name and address of the person to whom the vehicle was disposed of, if that information is in your possession. If you became the owner of the vehicle after that date, you must include a statement of the name and address of the person from whom the vehicle was acquired, if that information is in your possession. Please supply evidence of the disposal/acquisition (e.g. a sales receipt).*
- At the time the alleged contravention took place the person who was in control of the vehicle was in control of the vehicle without consent of the owner. – *Please enclose any evidence (e.g. police crime report, insurance claim).*
- I am/We are a hire firm and the vehicle in question was at the material time hired from the firm under a hiring

agreement; and the person hiring it had signed a statement acknowledging liability in respect of any penalty charge involving the vehicle during the period of the hire agreement .- *You must include a statement of the name and address of the person to whom the vehicle was hired at the material time. Please also supply a copy of the hire agreement and the statement acknowledging liability.*

- The penalty charge exceeds the amount applicable in the circumstances of the case. – *Where you think you are being asked to pay more than you should legally pay.*
- That the penalty charge has already been paid in full, or has been paid at the reduced amount within the specified period. – *Please provide details of the payment method, date and amount.*
- Any other ground you wish to raise.

Details:
<i>(Please continue on another sheet if necessary)</i>

Ownership details: I was not the owner/keeper of the vehicle when the PCN was issued because:	
<input type="checkbox"/> I have never owned the vehicle.	
<input type="checkbox"/> I disposed of the vehicle before the contravention on:	Name of person from whom acquired/to whom disposed:
<input type="checkbox"/> I acquired the vehicle after the contravention on:	Address of person from whom acquired/to whom disposed:
<input type="checkbox"/> We are a hire firm and the vehicle was on hire at the time.	

Please make sure you sign the following declaration if you want us to consider your representations.

I confirm that the above information is correct to the best of my knowledge. I understand that making a false statement may result in prosecution and a possible fine of up to £5,000.

(name in BLOCK CAPITALS).....

(position in company, if relevant).....

(signature).....

(date).....

APPENDIX B – Notice of Acceptance letter*

London Borough of London
[Correspondence name & address]

Mr A B Smith
99 Any Street
Anywhere NE1 4BO

[Letter date]

Dear Mr Smith,

Penalty Charge Notice: [PCN number]

Thank you for your letter of [Reps letter date] in which you made representations about the above Penalty Charge Notice (PCN).

I am pleased to tell you that we have accepted your representations that you should not have to pay the penalty charge and we have cancelled the Penalty Charge Notice. You should therefore hear no more about this matter.

If you want any help or more information, please telephone our helpline on **[Helpline phone number]**

Yours sincerely,

Fred Quimby
Environmental Services Officer

*If you would like to request a Microsoft Word version of this sample document please contact: info@londoncouncils.gov.uk

APPENDIX C – Notice of Rejection letter*

London Borough of London
[Correspondence name & address]

Mr A B Smith
99 Any Street
Anywhere NE1 4BO

[Letter date]

Dear Mr Smith,

Penalty Charge Notice: [PCN number]

Thank you for your letter of [Reps letter date] in which you made representations about the above Penalty Charge Notice.

We have read your letter but do not consider that you have made out the grounds for cancelling the Penalty Charge Notice. This letter is issued as a formal Notice of Rejection of your representations.

We have rejected your representations because [Reasons for rejection].

Therefore, before the end of the period of 28 days beginning with the date that this letter was served on you (i.e. the date it was delivered), you must either pay the penalty charge of £[amount payable] or appeal to the independent Adjudicator.

If you want to pay, please see the How to Pay section at the end of this letter.

If you want to appeal, please read the guidance notes attached to the appeal form enclosed with this letter, then complete the appeal form and send it to the Parking and Traffic Appeals Service, PO Box XXX, Chertsey, KT16 6BW. Please do not send the appeal form to us. The Adjudicator will consider your appeal and make a final decision. Please note that an adjudicator cannot normally award costs against you but may do so if he considers that you have acted frivolously, vexatiously or wholly unreasonably. Equally the adjudicator may award costs against an authority that he considers has acted frivolously, vexatiously or wholly unreasonably.

If you do not pay or appeal before the end of the 28 day period, the penalty charge may increase by 100% to £ [full amount + 100%] and we may serve a Charge Certificate seeking payment of this increased amount. At that stage, you may have missed the opportunity to appeal. If the increased charge is not then paid within a further 14 days, we may apply to the county

*If you would like to request a Microsoft Word version of this sample document please email: info@londoncouncils.gov.uk or for a copy of the appeal form contact: patas.team@patas.gov.uk or telephone 02 7520 7200

court to recover the charge as if it were a debt payable under a county court order.

If you want any help or more information, please telephone our helpline on [Helpline phone number]

Yours sincerely,

Fred Quimby
Environmental Services Officer

HOW TO PAY

Please make cheques and postal orders payable to “[Payee details]” and write the penalty charge notice number on the back. Please do not send post-dated cheques as they will not be accepted.

If you want to pay by post, please fill in the payment slip below and send it with your payment or card payment authorisation to: [Payment address]. If you want a receipt, please enclose a stamped addressed envelope. Please do not send cash through the post.

If you want to pay in person, please go to [Payment centre address] between [Times] on [Days]. If you pay by cash it is very important to get a receipt, in case there is any later query about your payment.

Or you can pay by calling our telephone payment line on [Payment phone number] between [Times] on [Days] using one of the following debit or credit cards – [List of accepted cards].

Payment slip – please return with all payments sent by post

Penalty Charge Notice Number: [PCN number]
issued in: [Contravention location] at: [End time] on [Contravention date]

Mr/Mrs/Ms/Miss: _____

Address: _____

Postcode: _____

**Only complete the details below if you are making payment by MASTERCARD
VISA, SWITCH or DELTA card.**

Please debit my MasterCard / Visa / Switch / Delta card (delete as appropriate)

Amount £ _____

Card Number: ____/____/____/____ Switch Issue Number: _____ (Switch 19 numbers)

Card Issue Date __/__/__ Card Expiry Date __/__/__

Name of Cardholder: _____

Signature of Cardholder: _____ Date: _____

APPENDIX D – Charge Certificate*

CHARGE CERTIFICATE London Local Authorities Act 2007

Owner Name Owner Address 1
Owner Address 2
Owner Address 3 Town
Postcode

Date: [Issue date]

Penalty Charge Notice No: [PCN number]

Date of contravention: [Contravention date]

Location of contravention: [Contravention location]

We sent you a Penalty Charge Notice on [Notice issue date] which explained that as the person we believe is the owner (or hirer) of the vehicle, registration number [VRM], you had to pay a penalty charge, or write to us explaining why you believed you did not have to pay it.

We are now sending you this Charge Certificate because (include as appropriate) [you did not respond to the PCN / you wrote to us but we did not accept your reasons for not having to pay the penalty charge and you did not then appeal to the adjudicator / you appealed to the adjudicator but your appeal was rejected], and the charge has not been paid.

As a result, the penalty charge has now increased by 100% to £[full amount + 100%].

You must pay this increased amount before the end of the period of 14 days, beginning with the date this certificate was served (the date it was delivered). See overleaf for details of how to pay.

If we do not receive payment before the end of the 14 day period, we may register the charge as a debt at the county court and ultimately we may pass the case to bailiffs to recover the debt.

We strongly advise you to deal with this matter now as if it is passed to bailiffs they will add their costs, which will significantly increase the amount that will need to be paid.

If you have any questions about this Charge Certificate, please telephone our helpline on [Helpline phone number]

*If you would like to request a Microsoft Word version of this sample document please email: info@londoncouncils.gov.uk

HOW TO PAY

Please make cheques and postal orders payable to “[Payee details]” and write the penalty charge notice number on the back. Please do not send post-dated cheques as they will not be accepted.

If you want to pay by post, please fill in the payment slip at the bottom of this page and send it with your payment or card payment authorisation to: [Payment address]

If you want a receipt, please enclose a stamped addressed envelope.

Please do not send cash through the post.

If you want to pay in person, , please go to [Payment centre address] between [Times] on [Days] If you pay by cash it is very important to get a receipt, in case there is any later query about your payment.

Or you can pay by telephone on [Payment phone number] between [Times] on [Days] using one of the following debit or credit cards – [List of accepted cards].

.....

Payment slip – please return with all payments sent by post

Penalty Charge Notice Number: [PCN number] VRM: [VRM]
issued in: [Contravention location] at: [End time] on: [Contravention date]

Mr/Mrs/Ms/Miss: _____

Address: _____

Postcode: _____

Only complete the details below if you are making payment by MASTERCARD, VISA, SWITCH or DELTA card.

Please debit my MasterCard / Visa / Switch / Delta card (delete as appropriate)

Amount £ _____

Card Number: ____/____/____/____

Switch Issue Number: _____ (Switch 19 numbers)

Card Issue Date __/__/__ Card Expiry Date __/__/__

Name of Cardholder: _____

Signature of Cardholder: _____

Date: _____

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