

## Southampton City Council

### REPRESENTATIONS AGAINST REMOVAL OF VEHICLE

You have a right to make representations to Southampton City Council if your vehicle was found in a civil enforcement area for parking contraventions, it was removed and:

- (a) you are required to pay an amount on recovery of the vehicle under s101A of the Road Traffic Regulation Act 1984, being the penalty charge payable in respect of the parking of the vehicle in the place from which it was removed, such unpaid earlier penalty charges relating to the vehicle as may be prescribed, together with any removal fee and any storage fees (“relevant charges”);
- (b) you have received the sum by which the proceeds of sale of the vehicle exceed the amount of the relevant charges;
- (c) you have been informed that the proceeds of sale of the vehicle did not exceed the relevant charges; or
- (d) you have been informed that the vehicle was disposed of without there being any proceeds of sale.

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, in the particular circumstances of the case, the authority should:

- (a) refund some or all of the amount paid to secure the release of the vehicle or deducted from the proceeds of sale; or
- (b) waive its right to recover all or any of the sums due to it on account of the removal or disposal of the vehicle.

Please ensure your representations are received by the authority before the end of the period of 28 days beginning with the date that you were informed in writing of your right to make representations as the authority may disregard any representations received outside this 28 day period.

The statutory grounds for representation are that:

- the vehicle had not been permitted to remain at rest in a civil enforcement area for parking contraventions in circumstances in which a penalty charge was payable by virtue of regulation 4 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (“General Regulations”);
- the Civil Enforcement Officer (CEO) had not, in accordance with regulation 9 of the General Regulations, fixed a penalty charge notice (PCN) to the vehicle or handed such a notice to the person appearing to him to be in charge of the vehicle, before the vehicle was removed;
- at the time the vehicle was removed, the power, under paragraph (2) of regulation 5C of the Removal and Disposal of Vehicles Regulations 1986, to remove the vehicle
  - to another position on the road where it was found,
  - to another road, or
  - to a place which is not a on a road,was not exercisable by virtue of paragraph 3 of that regulation in that the vehicle concerned was in a parking place and a PCN had been served by affixing the PCN to the vehicle or by handing the PCN to the person who it appeared to the CEO was in charge of the vehicle and the contravention consisted of or arose out of a failure to

- pay a parking charge with respect to the vehicle,
  - to properly display a ticket or parking device, or
  - remove the vehicle from the parking place by the end of the period for which the appropriate charge was paid,
- and the appropriate period had not elapsed since the PCN was issued in respect of the contravention, being
- 15 minutes in the case of a vehicle as respects which there are three or more penalty charges outstanding, or
  - 30 minutes in any other case;
- the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;
  - the place where the vehicle was at rest was not in a civil enforcement area for parking contraventions;
  - the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case; or
  - there has been a procedural impropriety on the part of the enforcement authority.

“Procedural impropriety” means a failure by the enforcement authority to observe any requirement imposed on it by the Traffic Management Act 2004, the General Regulations or the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007 in relation to the imposition or recovery of a penalty charge or other sum.

Representations may be made online at [www.southampton.gov.uk](http://www.southampton.gov.uk) follow the links to manage your Penalty Charge Notice, by fax to 02380 834601 or by post to Parking Services, PO Box 1098, Southampton SO14 7WE. 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.

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 you were informed in writing of your right to make representations.

If we accept your representations on the basis that one or more of the statutory grounds apply, we will:

- (a) refund the relevant charges paid to have the vehicle released or otherwise deducted from the proceeds of sale except to the extent (if any) those sums were properly paid or deducted; and
- (b) inform you that the authority has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

If we accept your representations on the basis that there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle or deducted from the proceeds of sale should be refunded, or the authority’s right to recover all or any of the sums due to it on account of the removal or disposal of the vehicle should be waived, we will:

- (a) refund the relevant charges paid to have the vehicle released or otherwise deducted from the proceeds of sale, or such of them as we consider appropriate; and
- (b) inform you that the authority has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

If you have made representations within the period of 28 days beginning with the date on which you were informed in writing of your right to make representations, 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 which will state, amongst other things, that you may appeal to an adjudicator against our decision not to accept your representations and the notice will give information about the time limits for appealing to an adjudicator.

At the end of this document 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.

**To make an enquiry about this document, or for any other information, please telephone 02380 833008. Parking information is also available on [www.southampton.gov.uk](http://www.southampton.gov.uk).**

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### **Data Protection Statement**

Southampton City Council will use information, including personal information, collected by means of this document for the enforcement of traffic 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.

**MAKING REPRESENTATIONS**

Representation made in respect of PCN number: \_\_\_\_\_

Date of Contravention: \_\_\_\_\_

Date of Vehicle Release: \_\_\_\_\_

Vehicle Registration Number: \_\_\_\_\_

Name and Address of Driver		Name and Address of Payer	
Name		Name	
Address		Address	
Postcode		Postcode	

**Please specify whether you are the:**

Owner:

Driver:

Keeper:

Hirer:

**Grounds for Representation**

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

- The vehicle had not been permitted to remain at rest in a civil enforcement area in circumstances in which a penalty charge was payable by virtue of regulation 4 of the General Regulations.
- The CEO had not fixed a PCN to the vehicle, or handed it to the person appearing to him to be in charge of the vehicle, before the vehicle was removed.
- The power to remove the vehicle under paragraph 2 of regulation 5C of the Removal and Disposal of Vehicles Regulations 1986 was not exercisable by virtue of paragraph 3 of that regulation
- The vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner – *please provide evidence (e.g. police crime report, insurance claim).*
- The place where the vehicle was at rest was not in a civil enforcement area for parking contraventions.
- The penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case.
- There has been a procedural impropriety on the part of the enforcement authority.

**Please give a detailed account of the circumstances in which you parked the vehicle and provide any further evidence supporting your representations.**

