

Monmouthshire County Council Car Parking Appeals and Write off Procedure

Monmouthshire County Council has in place arrangements for dealing with appeals and cancellation of a Penalty Charge Notice (PCN). They include details of how mitigating circumstances will be taken into account and set out the limits of officer discretion.

In dealing with appeals the Council aims to exercise a fair and consistent application of procedures.

What is an appeal?

Appeals are the formal stage for the driver of a vehicle to appeal or challenge against a PCN issued to their vehicle. All appeals must be made in writing within 7 days of the PCN issue date. They are dealt with on an individual case by case basis. The first stage of review is carried out by the Car Parking Assistant, followed if necessary by a review from the Car Parking Manager and finally if required assessment by the Transport Manager.

For those appeals which are reviewed we would aim to provide a final decision within 21 days of the original appeal

Appeals will normally only be considered if received within the 7 day period from issue of the Penalty Charge Notice. If the appeal is not upheld and is not reviewed by other officers, the motorist will still have the opportunity to pay the discounted PCN fee, on condition they do so within 14 days of the appeal decision. If 14 days elapses after the appeal decision, the penalty will revert to the full rate.

If no payment is received, keeper details are sought from DVLA and correspondence to the keeper of the vehicle will be issued 28 days after the date of the service of the PCN. The keeper then has 14 days to make a representation or advice of the driver details. Such cases would normally only be reviewed once. If the appeal is successful the PCN will be cancelled or waived.

If an appeal is rejected, the owner is liable for the charge at the discounted rate which will be available for a further 14 days. If the charge is not paid the recovery of the outstanding debt will be recovered via legal proceedings which are detailed below.

Legal Process

If a PCN remains unpaid and no appeal has been received within 28 days a letter will be sent to the owner of the vehicle informing them that as the PCN remains outstanding, MCCs legal debt recovery process will commence. The debt could

then be pursued by the Car Parking Section through the Magistrates Court system.

The PCN will remain as an outstanding debt on MCCs Car Parking Budget for a period of 6 months from the date of issue. After which time if the PCN remains outstanding, consideration will be given to legal action being instigated against regular and persistent offenders or those with outstanding PCN debt totalling over £200. Other debts will be pursued through alternative debt recovery methods such as the use of debt collection agencies, with the support of the Council's Debt Recovery and Legal sections. After 12 months if the debt remains outstanding consideration will be given to processing the debt for formal write off in accordance with the Council's Debtor Policy.

Dealing with appeals

In considering both objections and representations, the Council will exercise discretion in dealing with mitigating circumstances however it is important to have a level of consistency when making appeal decisions. Examples are detailed in Table A which follows. The Parking Assistant or Car Parking Manager will check the Parking Officers notes/statements and photographic evidence prior to making the decision.

Table A

Contravention Offence	Decision
Failure to display a valid parking ticket.	<ul style="list-style-type: none"> • If a ticket is produced, and its validity can be checked against the details of the PCN. Appeal upheld - Waive. • All Other Cases – PCN Upheld
Ticket Expired	<ul style="list-style-type: none"> • If a valid overstay ticket is presented – Appeal upheld - Waive • If no overstay or a late overstay ticket is presented – PCN Upheld, unless there are mitigating circumstances (e.g. hospital, doctors appointment) raised during the appeal process.
Not parked wholly within a marked bay	<ul style="list-style-type: none"> • If photographic evidence is not adequate and does not show a wheel of the vehicle to be completely over white line – Appeal upheld - Waive • All Other cases – PCN Upheld
For not displaying a valid disabled badge when parked in a marked disabled bay	<ul style="list-style-type: none"> • If Motorist is displaying their blue badge incorrectly (i.e. not showing valid date), but then produces the valid disabled badge - Appeal upheld - Waive • If the badge holder completely fails to display a badge– PCN Upheld
For obstructions/parking in roadway	<ul style="list-style-type: none"> • Where road markings end/or signs are not adequate to inform the motorist. – Appeal upheld - Waive • All Other cases – PCN Upheld

The contravention did not occur	Appeal upheld - Waive
Not the owner of the vehicle at the time of the contravention	<ul style="list-style-type: none"> If we cannot trace the owner of the vehicle after two attempts, Case to be processed for formal write off.
PCN issued to hire/lease vehicle	<ul style="list-style-type: none"> If the hire firm supplied the name of the hirer, the actual driver will be pursued via the normal process. – PCN Upheld
PCN already paid	<ul style="list-style-type: none"> If the penalty charge has been paid, either in full or at a discounted rate within the 14 day discounting period. – Case automatically closed through payment process.

Definitions

Waive – This applies when a PCN is valid, but the owner of the vehicle has produced sufficient evidence and documentation to the satisfaction of Officers in the Car Parking Section not to pursue payment.

PROPOSAL: Responsibility for this sits with the Car Parking Section

Reduce – This applies where the PCN is valid but Officers in the Car Parking Section consider there are circumstances in which a discounted or reduced payment rate would be appropriate. It would also require the provision of sufficient evidence and documentation from the appellant.

PROPOSAL: Responsibility for this is proposed to sit with the Car Parking Section.

A record will be kept of PCNs that are waived and inspected by senior officers, for 12 Months.

Write Off – Where the PCN is valid but it is considered that the debt is unrecoverable and there is insufficient evidence to pursue enforcement. This will only be an option after the normal PCN appeals process has been completed, including contacting the DVLA for Notice to Owner details has been followed, and after that timeline the PCN remains unpaid.

Considering factors would include incorrect address details obtained via the DVLA and if the costs of pursuing the PCN debt through the legal system are in excess of the outstanding debt.

PROPOSAL: Responsibility for writing off of outstanding PCN debt will be in accordance with the main sundry debtor policy.