

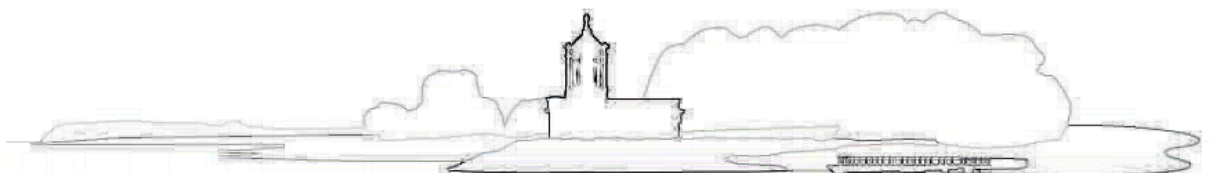


Rutland County Council

LITTERING FROM VEHICLES ENFORCEMENT POLICY

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Approved by Scrutiny	
Approved by Cabinet	
Approved by Full Council	



Summary of document

This policy sets out the enforcement process associated with the Littering from Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018, and any amendments or associated legislation, regulations or guidance to Local Authorities.

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1.0 BACKGROUND

- 1.1 Rutland County Council is responsible for ensuring a safe, welcoming and environmentally friendly public asset.
- 1.2 Litter has a significant impact on the environment, is expensive to clean up and, if not properly managed, can cause issues for wildlife, residents, businesses and affects first impressions for visitors and tourists.
- 1.3 RCC has a duty under Section 89 of the Environmental Protection Act 1990 to clear litter from highways and relevant land.
- 1.4 RCC funds street cleansing operations for the public highway and open lands, at a cost of £600k each year and an estimated that 180 tonnes of waste are removed.
- 1.5 On 1st April 2018, the Littering from Vehicles outside London (Keeper: Civil Penalties) Regulations 2018 (hereafter referred to as “LFV Regulations”) came into effect. The effect of the LFV Regulations was to amend Section 88 of the Environmental Protection Act 1990 (EPA). The new Section 88A, grants powers to litter authorities to issue Penalty Notices (PN’s) for littering from vehicles.
- 1.6 Historically, littering has been dealt with as a criminal offence, enforced using Fixed Penalty Notices (FPN’s) in lieu of prosecution. These powers remain unchanged, giving local authorities the option to choose criminal or civil options to enforce, protections have been included in the new powers to prevent double jeopardy, meaning a person cannot be issued more than one penalty (criminal or civil) for the same occurrence.
- 1.7 The LFV Regulations provide for a new civil contravention, which can be enforced by local authorities which are also litter authorities, in much the same manner as Penalty Charge Notices (PCN’s) are issued for civil parking contraventions.

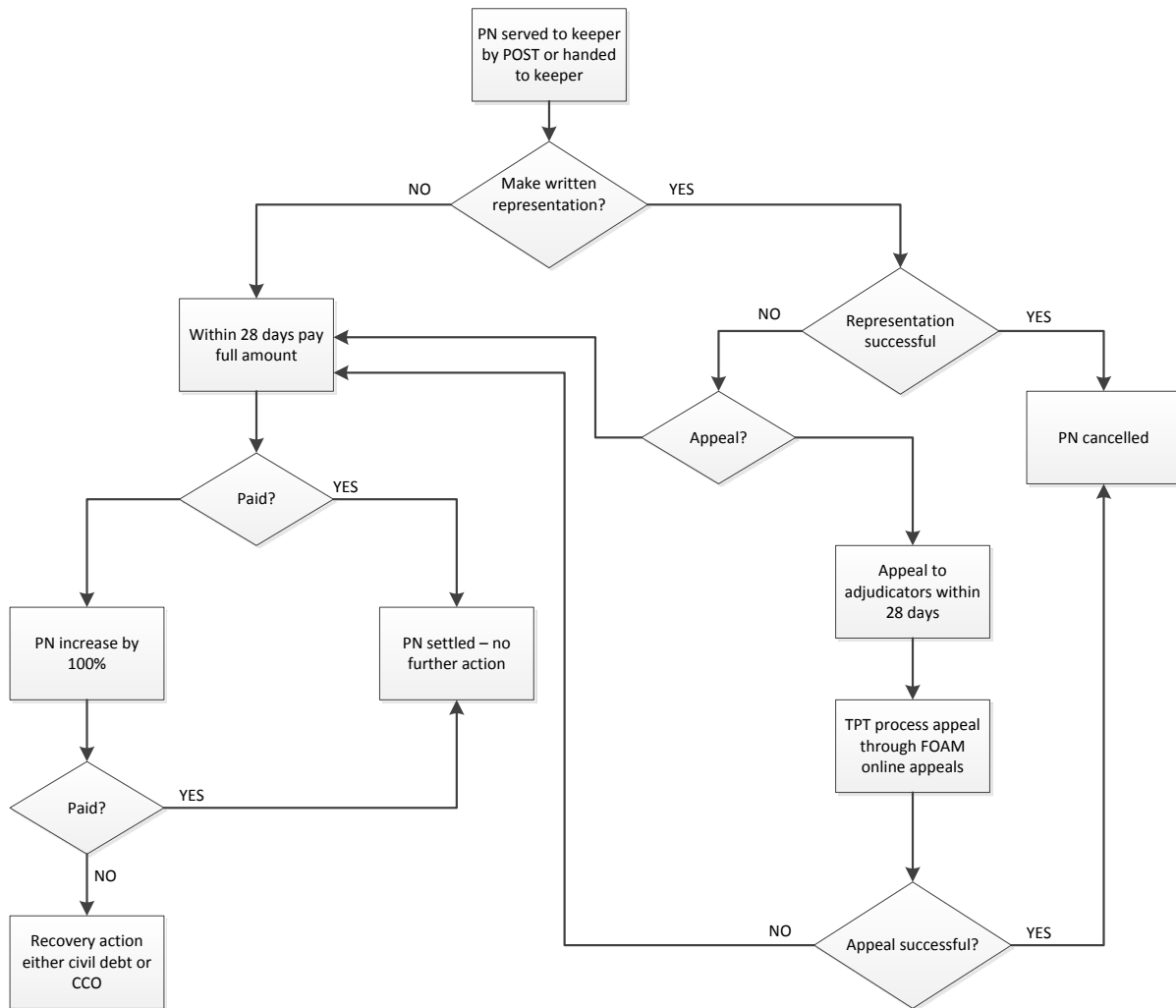
- 1.8 Successful criminal prosecutions are often much harder to secure, as the burden of proof is much higher and the onus on a prosecutor to prove beyond reasonable doubt that an offence has occurred, whereas civil contraventions has lesser requirements for evidence quality and are issued based on an assumption the contravention has occurred, with the onus on the appellant to prove it did not occur or that the contravention did occur, but there are sufficient mitigations what mean a penalty is not applicable.
- 1.9 The purpose of this policy is to set out the principals of enforcement, provide a robust and transparent process, and to outline how and when enforcement powers will be used.
- 1.10 It is essential that public support is maintained in any enforcement activities. To achieve this, the policy will also set out a fair internal appeal process and ensure at all times that operations are conducted in line with the spirit of the legislation and that transparency and communication remain a priority.

2.0 LEGISLATION

- 2.1 A copy of The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018 can be found following this link <http://www.legislation.gov.uk/ukdsi/2018/9780111163818/contents>
- 2.2 The effect of these regulations is to insert a new section into the Environmental Protection Act 1980, a copy of this Act can be found following this link <https://www.legislation.gov.uk/ukpga/1990/43/contents>

3.0 ENFORCEMENT

3.1 The following process will be applied in respect of Penalty Notices:



3.2 Authorised Officers

In respect of Rutland County Council, an authorised officer includes a person employed for any purpose directly by RCC and who has the function of ‘enforcement’, or a variation of the term but with the same meaning assigned in their job description.

A person in such a position will be considered an ‘authorised officer’ only when a proper training course has been completed and competence is confirmed in writing by the Strategic Director for Places to the line manager.

3.3 Penalty Notice

A Penalty Notice will be of a design which meets national guidance, and includes the information stated in Regulation 5 of the LFV Regulations.

The penalty amount is set at £150, no reduced fee is offered for early payment.

3.4 Issuing a Penalty Notice

A Penalty Notice, of a similar design to that included in **Appendix B**, will be issued to the Registered Keeper of a vehicle in the following circumstances, where the contravention: -

- a) has occurred on relevant land (relevant land shall have the same meaning as assigned in Section 86 and 89(1) of the Environmental Protection Act)
- b) occurred not more than 35 days prior to the Penalty Notice being served (when served by post it is considered served after two working days if sent by first class post to an address within the United Kingdom, five working days if sent by first class post to an address outside of the United Kingdom and, if served by electronic means, is treated as being served on the working day immediately following the day on which it was sent (a notice may only be sent by electronic means if the person has informed the litter authority that notices of that description may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose and if the notice is sent to that address in that form)
- c) is / has not already been progressed as a Fixed Penalty Notice
- d) is not 'petty or insignificant', an example of this circumstance may be ash from a cigarette, which will quickly disperse and leave no obvious material
- e) is not an exempt vehicle described in Regulation 12 of the LFV Regulations (example a public service, hackney or private hire vehicle)
- f) has been recorded on a CCTV device (fixed or mobile), a body mounted camera carried by an authorised officer, the observation only of an authorised officer or where an authorised officer witnesses the contravention and is able to be adequately recorded in a pocket book.

The regulations do provide for Penalty Notices to be issued on evidence produced by members of the public, though in respect of Rutland, it is considered problematic and could be difficult to defend at an independent tribunal.

3.5 Evidence

A penalty notice will be issued only if the contravention has been captured by one of the following means: -

- a) CCTV device, either fixed or mobile), working on a system which is capable of producing a record of the presence of a vehicle on relevant land, including the date and time. A certificate is required, stating the circumstances in which the record was produced and signed by an authorised person
- b) A body camera, worn by an authorised officer, capable as described in 3.5(a) above
- c) A vehicle mounted or dashboard mounted camera, capable as described in 3.5(a) above
- d) A written statement from an authorised officer, describing events to a standard which includes all the information required to issue a Penalty Notice.

3.6 Representations

Where a representation is made, RCC will consider whether the grounds given meet any of those described in **Appendix A** of this report, or whether there are other circumstances which should reasonably be taken into consideration.

A record of all Penalty Notices will be retained, including notes on its status, using a system which can be audited as and when required.

4.0 INDEPENDENT ADJUDICATION

- 4.1 PATROL (Parking and Traffic Regulations Outside London) undertakes initiatives to support its local authority members and raise awareness of the objectives of civil enforcement, including the promotion of annual reports in respect of parking, provision of information online and taking forward traffic management issues of mutual interest to its local authority members, whilst ensuring the motorists perspective is also taken into account, as seen through its already well-established appeals process, managed by the Traffic Penalty Tribunal.
- 4.2 The Traffic Penalty Tribunal (TPT) is responsible for providing the independent adjudication service in respect of Penalty Notices.
- 4.3 Much like civil parking contraventions and the associated Penalty Charge Notice, TPT will be the independent adjudicator for Penalty Notices.
- 4.4 The processes associated with the independent tribunal are published, and regularly updated. These can be found at <https://www.trafficpenaltytribunal.gov.uk/>.

5.0 APPENDIX A – GROUNDS FOR MAKING REPRESENTATIONS

(Reference: The Littering From Vehicles Outside London (Keepers: Civil Penalties) Regulations 2018)

Representations against penalty notice

14.—(1) A person to whom a penalty notice is given may make written representations to the litter authority if it appears to the person that one or more of grounds A to L apply.

(2) The representations may only be made within the period of 28 days beginning with the day on which the penalty notice is given.

(3) **Ground A** is that the littering offence in question did not occur.

(4) **Ground B** is that the person was not the keeper of the vehicle at the time of the littering offence because the person became the keeper of the vehicle after the littering offence occurred.

(5) **Ground C** is that the person was not the keeper of the vehicle at the time of the littering offence because the person had disposed of the vehicle to another person before the littering offence occurred.

(6) **Ground D** is that the person was not the keeper of the vehicle at the time of the littering offence because the vehicle was a stolen vehicle when the littering offence occurred.

(7) **Ground E** is that the person— (a) was engaged in the hiring of vehicles in the course of a business at the time of the littering offence, and (b) was not the keeper of the vehicle at that time by virtue of a vehicle hire agreement.

(8) **Ground F** is that the person was not the keeper of the vehicle at the time of the littering offence for a reason not mentioned in grounds B to E.

(9) **Ground G** is that the litter authority was not, by virtue of regulation 4(5), authorised to give the person a penalty notice.

(10) **Ground H** is that the person is not liable to pay the fixed penalty by virtue of regulation 12.

(11) **Ground I** is that liability to pay the fixed penalty has been discharged in the circumstances set out in regulation 13.

(12) **Ground J** is that the fixed penalty exceeds the amount payable under these Regulations.

(13) **Ground K** is that the litter authority has failed to observe any requirement imposed on it by these Regulations in relation to the imposition or recovery of the fixed penalty.

(14) **Ground L** is that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).

(15) If a person makes representations that ground B applies, the representations must include the name and address of the other person from whom the vehicle was acquired (if known).

(16) If a person makes representations that ground C applies, the representations must include— (a) the name and address of the other person to whom the vehicle had been disposed of (if known), or (b) a statement that the name and address of that person is not known.

(17) If a person makes representations that ground D applies, the representations must include the crime reference number, insurance claim reference or other evidence of the vehicle's theft.

(18) If a person makes representations that ground E applies, the representations must include— (a) a statement signed by or on behalf of the person to the effect that at the time of the littering offence the vehicle was hired to a named person under a vehicle hire agreement with the person, and (b) a copy of the vehicle hire agreement.

(19) In paragraph (7)(b), the reference to a person ("P") being a keeper of a vehicle by virtue of a vehicle hire agreement includes a reference to any period during which, with the consent of the person hiring the vehicle, P continues in possession of the vehicle as hirer, after the expiry of any period specified in the agreement but otherwise on the terms and conditions specified in it.

(20) In this regulation, "vehicle hire agreement" means an agreement which— (i) provides for a vehicle to be let to a person for a period of any duration (whether or not the period is capable of extension by agreement between the parties), and (ii) is not a hire-purchase agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974(a).

6.0 APPENDIX B – TEMPLATES

6.1 Penalty Notice

PENALTY NOTICE (PN)

The Littering From Vehicles Order Outside London (Keepers: Civil Penalties) Regulations 2018

«Offender_Title» «Offender_Initials»
«Offender_Surname»
«Offender_Address_1»
«Offender_Address_2»
«Offender_Address_3»
«Offender_Address_4»
«Offender_Town»
«Offender_County»
«Offender_Post_Code»

Date of this Penalty Notice and date of posting: «Date_Letter_Created»

To «Offender_Title» «Offender_Surname», this notice has been served to you because it appears to Rutland County Council that you are the owner of:

Vehicle Registration Number: «PN_Registration_Number» **Make:** «PN_Vehicle_Make»

In respect of which, Penalty Notice (PN) number «PN_Ticket_Number» was served on «PN_Contravention_Date» by Civil Enforcement Officer (CEO) «PN_Civil Enforcement Officer Number» who had reason to believe that the following contravention had occurred and that a penalty charge was payable: **Contravention:** «PN_Offence_Description»

Location: «PN_Street_or_Carpark_Name»

Date of Contravention: «PN_Contravention_Date» **Time:** «PN_Contravention_Time»

Colour: «PCN_Vehicle_Colour»

A penalty charge of «PN_Amount_Outstanding» is now payable by you as the owner and must be paid not later than the last day of the period of 28 days beginning with the date on which this Notice is served.

The Penalty Notice will be reduced by a discount of 50% to «PN_Reduced» if it is paid not later than the last day of the period of 14 days beginning with the date on which the PCN was served.

This Penalty Notice will be taken to have been served on the second working day after the day of posting (as shown above) unless you can show that it was not.

You may make representations to Rutland County Council as to why this Penalty Notice should not be paid. These representations should be made not later than the last day of the period of 28 days beginning with the date on which this Notice is served and any representations which are made outside that period may be disregarded.

NOTE: If you do not pay the penalty charge or make representations before the end of the period specified above the Council may increase the original penalty charge by 50% to «PN_Full_Fine_At_Charge_Cert» and take steps to enforce payment.

How to Make Representations

If you believe that the penalty charge should not be paid you may make representations to Rutland County Council. Representations must be in writing and you may use this form. The representations may be made by: **Post at: Rutland County Council, PO Box 597, Northampton, NN4 7XN**

Representations which are made after the end of the 28 day period specified on the first page of this Notice may be disregarded. This Notice will be taken to have been served on the second working day after the day of posting unless you can show that it was not. For more information on this, please turn to the last page of this Notice. If you submit your representations late, you should explain why.

The statutory grounds on which representations may be made are set out on the previous page together with an indication of the information which you should supply in support of your representations. It is important to provide all relevant information. Tick the relevant boxes and write your reasons in the box on the following page. This Notice will be cancelled if one or more of the specified grounds is established. This Notice may be cancelled for other compelling reasons even if none of the specified grounds apply. If the Notice is cancelled any sums already paid will be refunded.

If your representations are received in time or are received late but are taken into account, Rutland County Council will let you know its decision in writing not later than the last day of the period of 56 days beginning with the date on which your representation was served on it. If it fails to do so, this Notice will be cancelled and any sums already paid will be refunded. If your representations are rejected, you have the right to appeal against that decision to an independent Adjudicator. An appeal form will be sent with the letter rejecting your representations. The form will explain how and when to appeal to the adjudicator.

Rutland County Council's policy about late representations and / or representations not covered by the statutory grounds can be found on www.rutland.gov.uk/parking or in a leaflet available from the Council offices.

Further information about Littering From Vehicles Enforcement is available online at www.patrol-uk.info or in a leaflet available from the enforcement authority.

The Rule Relating to Service

The Littering From Vehicles Order Outside London (Keepers: Civil Penalties) Regulations 2018: Regulation 8

Representations against a Penalty Notice: The Specified Grounds

- (1) A person to whom a penalty notice is given may make written representations to the litter authority if it appears to the person that one or more of grounds A to L apply.
- (2) The representations may only be made within the period of 28 days beginning with the day on which the penalty notice is given.
- (3) Ground A is that the littering offence in question did not occur.
- (4) Ground B is that the person was not the keeper of the vehicle at the time of the littering offence because the person became the keeper of the vehicle after the littering offence occurred.
- (5) Ground C is that the person was not the keeper of the vehicle at the time of the littering offence because the person had disposed of the vehicle to another person before the littering offence occurred.
- (6) Ground D is that the person was not the keeper of the vehicle at the time of the littering offence because the vehicle was a stolen vehicle when the littering offence occurred.
- (7) Ground E is that the person—
(a) was engaged in the hiring of vehicles in the course of a business at the time of the littering offence, and (b) was not the keeper of the vehicle at that time by virtue of a vehicle hire agreement.
- (8) Ground F is that the person was not the keeper of the vehicle at the time of the littering offence for a reason not mentioned in grounds B to E.
- (9) Ground G is that the litter authority was not, by virtue of regulation 4(5), authorised to give the person a penalty notice.
- (10) Ground H is that the person is not liable to pay the fixed penalty by virtue of regulation 12.
- (11) Ground I is that liability to pay the fixed penalty has been discharged in the circumstances set out in regulation 13.
- (12) Ground J is that the fixed penalty exceeds the amount payable under these Regulations.
- (13) Ground K is that the litter authority has failed to observe any requirement imposed on it by these Regulations in relation to the imposition or recovery of the fixed penalty.
- (14) Ground L is that there are compelling reasons why, in the particular circumstances of the case, the penalty notice should be cancelled (whether or not any of grounds A to K apply).

(15) If a person makes representations that ground B applies, the representations must include the name and address

of the other person from whom the vehicle was acquired (if known).

(16) If a person makes representations that ground C applies, the representations must include— (a) the name and address of the other person to whom the vehicle had been disposed of (if known), or (b) a statement that the name and address of that person is not known.

(17) If a person makes representations that ground D applies, the representations must include the crime reference number, insurance claim reference or other evidence of the vehicle's theft.

(18) If a person makes representations that ground E applies, the representations must include—
(a) a statement signed by or on behalf of the person to the effect that at the time of the littering offence the vehicle was hired to a named person under a vehicle hire agreement with the person, and (b) a copy of the vehicle hire agreement.

(19) In paragraph (7)(b), the reference to a person ("P") being a keeper of a vehicle by virtue of a vehicle hire agreement includes a reference to any period during which, with the consent of the person hiring the vehicle, P continues in possession of the vehicle as hirer, after the expiry of any period specified in the agreement but otherwise on the terms and conditions specified in it.

(20) In this regulation, "vehicle hire agreement" means an agreement which—

(i) provides for a vehicle to be let to a person for a period of any duration (whether or not the period is capable of extension by agreement between the parties), and

(ii) is not a hire-purchase agreement within the meaning given by section 189(1) of the Consumer Credit Act 1974(1).

Write your representations here (attach any extra sheets if necessary)

Name and address of buyer/ seller/ hirer of vehicle (where relevant)

I confirm that my representations are true to the best of my knowledge. I realise that knowingly or recklessly making a false statement may result in prosecution and a fine upon conviction of up to level 5 on the standard scale (currently £6,000).

Signature:

Name (in capitals):

Date:

Position in company (if relevant):

How to Pay

Payment should only be made if the Notice is not disputed



- **Online:** at www.rutland.gov.uk/parking follow links from **online payments**
- **By post** using the payment slip to: Rutland County Council, PO Box 597, Northampton, NN4 7XN. Allow 2 working days for 1st class post and 5 for 2nd class with a cheque or postal order payable to Rutland County Council D.C.

All cheques and postal orders must have the PN 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.

Pay/Dispute

- a) **PAY - Pay the Penalty Notice in full using an above method.**
- b) **DISPUTE - Make representations to the Council (see overleaf).**

There are set grounds on which you may make representations. If you think that one or more of the listed grounds applies to your case, complete the form and return it to the Council. The letter you are sent if your representations are unsuccessful will explain how you can appeal to an independent adjudicator.

Payment Slip –

You must complete this slip in block capitals and return it with your payment to the address below.

Rutland County Council, PO Box 597, Northampton, NN4 7XN

Name: PN Number: «PN_Ticket_Number»

Address: Vehicle Registration: «PN_Registration_Number»

..... Date of notice: «PN_Contravention_Date»

Postcode: Time served: «PN_Contravention_Time»

PRIVACY STATEMENT

Data Protection Information In order to comply with the Data Protection Act and the General Data Protection Regulation (GDPR), which came into effect in May 2018, we have to provide you with information about the personal data you give to us. This information is set out below. Civil Enforcement Officers use body and hand-held camera devices for safety reasons and in order to enforce parking regulations. Where the regulations have not been complied with, your personal data may be collected, processed, shared and retained in order to carry out the performance of a public task and fulfil our legal obligations in the following ways: To request details of the registered keeper of the vehicle from the DVLA in order to pursue a Penalty Notice. Shared with third parties for appeals and enforcement. Shared with the Police or security organisations to prevent or detect crime. Your Data Rights In relation to the personal data which we may hold about you, in brief, you have the right to request to be informed, have access or rectify incorrect information. You also have the right to object to or restrict our processing of your data. Under Data Protection law we must verify your identity and explain to you our reasons if we do not agree to carry out your request. We will not sell your data or use it for marketing purposes without your consent. We will keep your data for as long as it takes to fulfil our legal obligations under the The Littering From Vehicles Order Outside London (Keepers: Civil Penalties) Regulations 2018. Contact and Further Information Rutland County Council is the data controller for the personal information you may provide. If you would like more information about how we use your data, please read our Privacy Policy on our website www.rutland.gov.uk. You can contact us by phone on 01572 722577, via email to dataprotection@rutland.gov.uk or by writing to us at Data Protection, Catmose House, Oakham, Rutland. LE156HP If you are not happy with the way the council is handling your personal information you have the right to lodge a complaint with the Information Commissioner's Office at www.ICO.org.uk.

6.2 Notice of Rejection

Example Council
Parking Services
Example Town
EX4 5RJ

02/10/17

Mr/Mrs Motorist
MotoristAddress
Example City
EX2 6EA

PCN Number: THXXXXXXXX
VRN:xx10xx

NOTICE OF REJECTION OF REPRESENTATIONS

Dear Motorist

We have considered your representations dated <day-month-year> about the penalty notice issued on the <date> and have taken into account everything you say. However, there are not sufficient reasons to cancel the penalty notice, which is now payable.

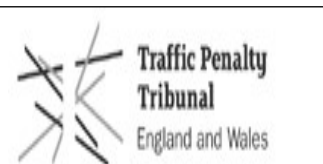
This letter explains the details of the penalty issued, our reasons for rejecting your representations and your options.

Take a moment to carefully read through ALL the sections in this letter (listed below) before you decide what to do next:

- 1. Our reasons for rejecting your representations.**
- 2. The details of the Penalty Notice.**
- 3. How to pay.**
- 4. How to appeal your decision.**
- 5. What happens if you do nothing.**

Yours sincerely,

Council Officer
Parking Services Officer



Appealing this decision

If you disagree with the council's decision you can appeal to the independent adjudicator at the Traffic Penalty Tribunal.

See Section 4 of this letter for further details.

Please consider ALL information in this letter before appealing.

1. Our reasons for rejecting your representations:

The litter was observed to be thrown from the driver's window of the vehicle:

More reasons.....

2. The details of your PN:

Code:75 Littering from a vehicle	Date of Issue: xxxxxxx Date of littering: xxxxxxxxx
Location: xxxxxxxx	MAKE: xxxxxxxx
COLOUR: xxxxxxxx	

3. How to pay:

The outstanding penalty notice (PN) is £XX

This must be paid BEFORE the end of 28 days, beginning with the date of this notice.

- **By Telephone:** Credit / Debit Card Payments only.
Automated payment line 0800 000 5469 0000 (24 hours / 7 days a week). Please have your card, vehicle registration mark and PN number to hand. Please note: We do not accept AMEX.
- **Online:** At www.exampletown.gov.uk/parking, selecting the payment option.
- **By Post:** Cheques or Postal Orders made payable to 'Example town address' (this is the address of our scanning company) – include the PN number with your payment and allow two working days for 1st class post; five working days for 2nd class.
- **In Person:** Parking Services at the Customer Service Centre @ Example town

4. How to appeal your decision:



If you disagree with the council's decision, you can appeal to the independent adjudicator at the Traffic Penalty Tribunal.

The adjudicators are independent lawyers and their decision is final.

You can appeal online by visiting the tribunal's website:

www.trafficpenaltytribunal.gov.uk. The website explains further what the adjudicator can consider and how to appeal.

If you are unable to appeal online, you may request a paper form (and find further information) from the Traffic Penalty Tribunal by calling 0800 160 1999, leaving your name, address, telephone number, vehicle registration mark and penalty notice (PN) number.

There is no charge for appealing and costs are not normally awarded. Details about when an order for costs can be made can be found on the website, or by calling the number above.

You will need the information below to hand when you begin your appeal:

Notice of Rejection Date:	<date>
PN Number:	<PN NO>
Vehicle Registration Mark:	<VRM>
PIN Code:	<PIN>

You should appeal within 28-days of delivery of this Notice of Rejection (this is usually two working days after the “Notice of Rejection” date above). Our website will explain this further.

5. What happens next if you do nothing:

If, after 28 days, you take no action, the PN will increase by 100%, after which we may apply to the County Court to recover the money, plus court costs, from you.

A large print version of this document is available on request



Rutland
County Council

Rutland County Council
Catmose, Oakham, Rutland LE15 6HP

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enquiries@rutland.gov.uk
www.rutland.gov.uk