

[REDACTED]

Parking and Traffic Appeals Service  
PO Box 694  
Weybridge, Surrey, KT13 3GR

Dear Sir/Madam,

Re: Penalty Charge Notice number: [REDACTED], Notice of Rejection: 11/03/2015, Vehicle registration: [REDACTED]

I am writing to formally challenge the above Penalty Charge Notice. Before the alleged contravention took place I had driven from Maida Vale, W9 via A404 Harrow Road, Ecclestone Place, B4565 Wembley Hill Road and left onto Dagmar Avenue. The street I chose to park on had no visible signs any reasonable driver could see within eyesight distance and therefore no apparent parking restrictions (Photographic Exhibit OO/01 and OO/02 attached). On return to my vehicle I was distressed to see my vehicle had gone. After liaising with the police via 101 and TRACE it appeared London Borough of Brent had towed the vehicle away. I was shocked to why the vehicle had towed away as I am not normally in breach of parking regulations. The vehicle had not been parked obstructively; there were plenty of room on either side of the road and not impeding the freedom of movement of traffic in any shape or form. I was under the assumption on a Sunday single-yellow parking would be permitted where no visible signage, CPZ or markings nearby.

When I enquired with the Serco Group whom works on behalf of the council when collecting the vehicle they stated I had "breached a controlled parking zone" (CPZ). On further research it seems the area I parked in was designated a CPZ zone from 8am to 9pm regardless of day. According to the map of CPZ's on [brent.gov.uk](http://brent.gov.uk) it appears I have driven past one of the entry points on the both verges of the carriageway on B4565 Wembley Hill Road after turning from Ecclestone Place.

Ecclestone Place is a one-way system on entry from A404 Harrow Road, which then becomes a narrow two-way single lane road, approximately one car width wide, on exit to B4565 Wembley Hill Road.

As a driver you must cope with a multitude of hazards and traffic markings in accordance with the Highway Code including but not limited to: narrow two-way systems giving way to vehicles approaching, making progress through parked cars in close proximity and taking care not to cause damage, give way road markings and taking extra care checking for cars /vulnerable road users at the junction. At this point the CPZ sign is invisible when turning onto B4565 Wembley Hill Road (Photographic Exhibit OO/03).

When driving on that particular day I had not seen the sign as perhaps the CPZ sign on the opposite side of the road was blocked by a lorry or a bus and the nearside CPZ sign was too high for a small hatchback to see clearly while checking for vehicles at the give-way junction. This is a genuine and de Minimis mistake. I had therefore returned to Ecclestone Place the day after as a passenger to observe the CPZ signs with another driver whom agreed if the opposite carriageway was blocked by any tall vehicle as such a bus the signs would be invisible as the nearside CPZ sign is too high and blocked by the vehicles pillar and roof.

After considering my situation I feel the removal of the vehicle and issuance of a PCN for the alleged contravention had procedural impropriety on the part of the Enforcement Authority

and the contravention did not occur. I would appeal like to appeal this removal based on the following points:

1. There has been a procedural impropriety on the part of the Enforcement Authority

The rejection notice from the council dated 11 March 2015 refers to the Traffic Management Act 2004 ("TMA 2004") and advises that my representations were considered in accordance with the TMA 2004 and the notice is a formal notice of rejection served under this Act. I find this incomprehensible considering the appeal process applied by the council is entirely independent of the TMA 2004 since it is wholly dependent upon regulations made under s.101B of the Road Traffic Regulation Act 1984 ("RTRA 1984"). Further error in the rejection notice occurs when the council advise that vehicles may be towed away in accordance with the TMA 2004. The TMA 2004 does not regulate the removal of vehicles so there can be no accordance with it. It is the Road Traffic Regulation Act 1984 and the regulations made under it that regulate vehicle removal. I submit that the council's failure to direct itself correctly as to the relevant laws amounts to a failure to discharge properly its statutory duty to consider my representations with the appropriate due care and attention.

2. The CPZ area was not properly signed and therefore there was procedural impropriety in this case.

Chapter 3 of the Traffic Signs Manual states under Section 5.44 that signs should be sited so as to be clearly visible to traffic turning into the side road, from whatever direction. Under Annex D, D6 of the Revised Edition November 2010 on Operational Guidance to Local Authorities: Parking Policy and Enforcement, it states: Where CPZ (or Restricted Parking Zone – RPZ) where authorised signing is to be used, care should be taken when siting the zone entry signs to ensure they are clearly and safely visible to motorists. I would like you to view PATAS case reference 2110713820 where an adjudicator has allowed an appeal after Greenwich Council has breached Operational Guidance to Local Authorities with similar circumstances to mine.

3. The authority did not follow the correct procedures to remove or had no right to remove.

Department of Transport guide entitled "Traffic Management Act 2004, The Secretary Of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions". The extracts attached (Exhibit OO/05) show the CEO has not acted in accordance with TMA 2004.

As allowed in section 38 of the Guidance, I request that the CEO who authorised the removal of my car to explain (a) what, if any, training he/she had received concerning when to authorise removal and how to prioritise removal (b) why he/she considered that my car should be removed even though it was not disrupting or blocking traffic or causing a nuisance, was not endangering anyone and given that there were many other equivalent spaces free in the immediate vicinity of my car. There has been procedural impropriety on the part of the enforcement authority

4. The towing of my vehicle was a disproportionate response to the contravention, procedural impropriety has occurred.

Before my vehicle was removed a Civil Enforcement Officer (CEO) served a Penalty Charge Notice (PCN) by fixing it to my vehicle. The regulations pursuant to the Traffic Management Act 2004 (TMA 2004) and also the Operational Guidance to Local Authorities specify that service by a CEO. I understand that procedural impropriety occurs where an enforcement

authority fails to observe any requirement imposed by the TMA 2004 and its associated regulations. I would like you to take a look at the Code of Practice on Civil Parking and Traffic Enforcement which stipulates removals should not be carried out in an ad-hoc or uncontrolled way which then lists several circumstances that are suggested in priority order for authorising removals. I would like to bring to the council's attention to Chief Adjudicator Caroline Sheppard's comments: "Removal action would be appropriate in cases where parked vehicles are causing an obstruction or a hazard to other road users, where they are obstructing a restricted stopping or waiting place such as a bus stop, cab rank or loading bay, or where the Local Authority has suspended the operation of a designated parking bay. Removal action from designated parking places would also be appropriate in some cases – for example, where a vehicle is parked across more than one meter bay or if parked in a loading, doctor's or residents' bay without authorisation. Vehicle removal would also be appropriate where a vehicle has been clamped for some time (for example, 24 or 48 hours) without any action being taken by its owner to pay for its release".

5. The council has failed to answer adequately my points raised in my initial appeal.

The council did not directly answer all if any of the queries in my representation, in contravention of the duty set down in the Secretary of State's "Statutory Guidance and the Traffic Management Act 2004". I therefore find procedural impropriety to have occurred in this respect.

Yours sincerely,



I confirm the details of my appeal are correct to the best of my knowledge. I realize that making a false statement to the Adjudicator is a criminal offence and may result in prosecution.

Signed

Date