

imperial^o

BUS LANES

LETTERSMARTI CONFIGURATION
REFERENCE GUIDE

INTRODUCTION

This document sets out how LetterSmarti makes decisions for each of the appeal reasons it is configured to handle. For each reason, the criteria used to determine the outcome of the appeal will be listed, along with the items of evidence required to verify certain claims made by an appellant.

Some appeal reasons have configurable options, to fine tune how LetterSmarti behaves, so that it suits your enforcement policy. This can come in the form of a *grace period* (e.g. "If someone parks with a recently expired Blue Badge, how many days after expiry would you allow this?") or in the form of *leniency* (e.g. "If someone forgets to put their permit on display, when would you allow it" – first offence only, always, or never).

The default options that LetterSmarti uses for grace periods or leniency choices are shown as underlined.

The following is an example of the structure of an appeal reason as found in this document.

X REASON CATEGORY

X.X REASON NAME

Brief description of the motorist's appeal reason

Accepted

- Criteria that the case must meet to allow the motorist's appeal to be accepted

Not accepted

- Criteria that will cause the motorist's appeal to be rejected

Grace period

- Configurable option for periods of time where the council will accept appeals, if the motorist falls within them

Leniency

- Configurable options for different policies the council may have on accepting appeals

Acceptable evidence

- Items of evidence provided by the motorist that are regarded as acceptable to prove the motorist's claims

If a reason does not contain one of the above sub-headings, the default result for a case that does not meet the criteria presented can be assumed to be the opposite, for example:

- A reason contains only the 'Not accepted' sub-heading, with some criteria described within.
- A case that does not meet any of the criteria specified under the 'Not accepted' sub-heading.
- The default result will be that the appeal is accepted.

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REASONS

1. MOTORIST NOT AT FAULT

1.1. VEHICLE WAS BROKEN DOWN

Where the motorist claims that their vehicle was broken down at the time of the contravention

Accepted

- If the video evidence supports the motorist's claim and they are able to provide evidence to support their claim

Acceptable evidence

- Invoice/receipt for repairs to the vehicle
- Recovery report from the recovery company
- Police report

1.2. VEHICLE HAD BEEN STOLEN

Where the motorist claims to not be liable for the PCN because their vehicle had been stolen

Accepted

- If the motorist can supply evidence to confirm that the vehicle had been stolen prior to the contravention occurring

Not accepted

- If the vehicle was stolen after the date of the contravention

Acceptable evidence

- Crime reference number provided by police
- Proof of insurance claim

1.3. WAS NOT AT THE LOCATION ON THE DAY

Where the motorist claims that they were not at the location at the time of the contravention

Accepted

- If **any** of the following details on the PCN are not the same as seen in the images recorded against the case—
 - the VRM; or
 - the make of the vehicle; or
 - the colour of the vehicle; or
- the above details seen in the case images are all correct, but the DVLA returns details that do not match these vehicle details; or
- the motorist is claiming that their vehicle is cloned and can supply evidence to support their claim

Acceptable evidence

- Crime reference number on headed paper from the police

1.4. NOT THE KEEPER AT THE TIME

Where the motorist claims that they were not the keeper at the time of contravention

Accepted

- If the motorist can supply evidence to support their claim

Acceptable evidence

- Confirmation from the DVLA, to show that they were not the registered keeper of the vehicle at the time of the contravention
- Proof of vehicle sale

1.5. NOT THE DRIVER

Where the motorist claims that they were not the driver at the time of the contravention

Never accepted

The registered keeper / owner of the vehicle is responsible for a Penalty Charge Notice even if they were not driving the vehicle at the time of the contravention

1.6. AVOIDING AN ACCIDENT

Where the motorist claims that they were driving in the bus lane to avoid an accident

Accepted

- If the video evidence shows that the vehicle was in the bus lane to avoid an accident

1.7. HIRE VEHICLE

Where the motorist claims not to be liable for the PCN because the vehicle was hired

Accepted

- If evidence can be supplied to transfer liability to another party

Acceptable evidence

- A vehicle hire agreement, where—
 - the full name and address of the hirer has been supplied; and
 - the VRM on the agreement matches the VRM of the vehicle in question; and
 - the agreement start and end dates cover the date of the contravention; and
 - it contains signed statement of liability for PCNs issued during the hire period

1.8. DIRECTED INTO THE BUS LANE

Where the motorist claims that they were in a bus lane because they were directed to do so

Accepted

- If the video evidence shows that vehicles were being directed into the bus lane; or
- no video evidence can be found, but that the council was made aware of an incident at this location that required vehicles to be directed into the bus lane

1.9. MOVED OVER FOR AN EMERGENCY VEHICLE

Where the motorist claims that they were driving in the bus lane to avoid an emergency vehicle

Accepted

- If the video evidence supports the motorist's claim

2. PCN IS INVALID

2.1. ALREADY PAID THE PCN

Where the motorist claims that they have already paid for the PCN

Accepted

- If a payment has been logged against the case, and the payment clears the remaining balance on the case; or
- a payment has not been logged against the case, but the motorist can provide evidence to support their claim that they had already paid for the PCN

Not accepted

- If only a partial payment has been made; or
- a payment has been made at the discounted rate after the expiry of the discount period

Acceptable evidence

- Bank statement
- Cash payment receipt
- Copy of cheque (both sides)
- Credit card statement
- Postal order report

2.2. PROCEDURAL IMPROPRIETY

Where the motorist claims that the PCN is invalid due to incorrect details having been recorded

Accepted

- In the case that the motorist correctly makes one of the following claims—
 - the PCN had the wrong VRM; or
 - the PCN had the wrong vehicle make; or
 - the PCN was issued for the wrong contravention; or
 - the PCN had the wrong date of contravention; or
 - the PCN had the wrong time of contravention; or
 - the PCN had the wrong location; or
 - the PCN had been served incorrectly; or
 - the PCN is invalid for another reason

Not accepted

- If the motorist correctly claims that the PCN had the wrong vehicle colour, but that the PCN was otherwise issued correctly

2.3. PCN WAS NOT SERVED

Where the motorist claims that the PCN was not attached to the vehicle or posted to them

Not accepted

- If the CEO's notes/documentation confirm that the PCN was served correctly; or
- the PCN was recorded as fixed to the vehicle; and
 - the CEO's notes/photos confirm that the PCN was affixed to the vehicle; or
- the PCN was served by post; and
 - the PCN was sent and served by first class post within the required time frame

Leniency

- Always / 1st offence / Never offer the discount if the PCN was served by being fixed to the vehicle; and
 - the CEO's notes/photos confirm that the PCN was affixed to the vehicle; and
 - the motorist is claiming that the PCN was not present when they returned to the vehicle

2.4. PENALTY EXCEEDED THE ALLOWED AMOUNT

Where the motorist claims that the penalty charge on their PCN exceeds the maximum allowed

Never accepted

The charges have been set and published in line with the requirements of the Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) Regulations 2005 and approved by the Secretary of State

2.5. OUTSIDE TIME OF ENFORCEMENT

Where the motorist claims that the PCN is invalid as they were outside the times of enforcement

Not accepted

- If the bus lane is in operation 24 hours, 7 days a week; or
- the vehicle was in the bus lane during its hours of operation

2.6. PENALTY ISSUED BY THE POLICE

Where the motorist claims they were issued an FPN by the police and so are not liable for a PCN

Accepted

- If the motorist can provide evidence to support their claim

Acceptable evidence

- Police FPN

3. OTHER

3.1. BLUE BADGE

Where the motorist claims to have been driving in the bus lane because they had a Blue Badge

Never accepted

As with other members of the motoring public, blue badge holders are not allowed to drive in a bus lane during its hours of operation

3.2. LOADING/UNLOADING

Where the motorist claims that they were loading/unloading goods

Accepted

- If the vehicle can be seen stopped and the loading activity taking place in the available video evidence; or
- the motorist can provide evidence to support their claim

Not accepted

- If the contravention occurred in a location where loading is prohibited

Acceptable evidence

- Delivery note

Leniency

- Always / 1st offence / Never allow loading / unloading in a restricted bus lane

3.3. BEREAVEMENT

Where the motorist claims that there was a bereavement which should exempt them

Accepted

- If the person who died was the registered keeper or the driver of the vehicle; and
 - the motorist is appealing on the basis that the liable party cannot be legally pursued; and
 - acceptable evidence is supplied; or
- If the person who died was a family member/relative/friend; and
 - the bereavement was recent; and
 - it can be reasonably accepted that this is a sincere situation

Acceptable evidence

- Death certificate (unless it would be inappropriate to ask, at user's discretion)

3.4. ONLY PARTIALLY IN THE LANE / NOT SUBSTANTIAL DISTANCE

Where the motorist claims that they were not driving in the bus lane for an excessive distance

Not accepted

- If the video evidence show that the vehicle drove in the bus lane for more than the allowed leniency
- If the type of bus lane at the location is—
 - a bus gate; or
 - a bus only street

Leniency

- Maximum distance: 20 metres

3.5. UNDERTAKE/OVERTAKE A TURNING VEHICLE

Where the motorist claims that they were in the bus lane to move past a turning vehicle

Not accepted

- If the video evidence show that the vehicle drove in the bus lane for more than the allowed leniency; or
- the video evidence does **not** support the motorist's claim

Leniency

- Maximum distance: 20 metres

3.6. TURNING INTO A ROAD / PROPERTY

Where the motorist claims that they used to bus lane to turn into a road or property

Not accepted

- If the video evidence shows that the vehicle drove in the bus lane for more than the allowed leniency; or
- the video evidence does **not** support the motorist's claim

Leniency

- Maximum distance: 20 metres

3.7. MEDICAL CONDITION

Where the motorist claims to have had to stop due to an existing medical condition

Accepted

- If the circumstances described by the motorist justify stopping in the bus lane (at the user's discretion); and
 - the motorist is able to provide evidence to support their claim

Acceptable evidence

- Hospital admission or discharge papers
- Letter from the doctor on headed paper
- Medical report or doctor's note
- Paramedic's report

Leniency

- Allow / reject appeals where the motorist must stop in a bus lane due to an existing medical condition

3.8. MEDICAL EMERGENCY

Where the motorist claims that, when they were issued the PCN, it was a medical emergency

Accepted

- If the motorist can provide evidence to support their claim

Not accepted

- If the video evidence shows that the vehicle did **not** stop; and
 - the motorist claimed that they had to pull over because of the emergency

Acceptable evidence

- Hospital admission or discharge papers
- Letter from the doctor on headed paper
- Medical report or doctor's note
- Paramedic's report

3.9. KEEPER WILL BE ABSENT FOR A LONG TIME

Where the registered keeper is expected to be absent for a long period of time

Accepted

- If the motorist is living abroad; and
 - the motorist is within leniency (1); or
- the motorist is in prison; and
 - the motorist is within leniency (2); and
 - the motorist can provide evidence to support their claim

Acceptable evidence

- Prisoner number

Leniency

- (1) The council does / does not cancel appeals for motorists living abroad
- (2) The council does / does not cancel appeals for motorists in prison

4. COMMONLY UNACCEPTED REASONS

4.1. BILL OF RIGHTS

Where the motorist claims that they are not liable for the PCN by invoking the Bill of Rights

Never accepted

The Bill of Rights does not apply as Penalty Charge Notices are not fines or forfeitures

4.2. UNAWARE OF PCN – BEEN AWAY

Where the motorist claims to have been unaware that they had been served the PCN

Never accepted

This does not constitute a valid reason for cancelling a PCN, however the user may re-offer the discount period at their discretion

4.3. WANTS MORE TIME TO PAY

Where the motorist wishes to be granted more time to pay the PCN

Never accepted

Penalty Charge Notices must be paid within the time-frame

4.4. NO BUSES AT THE TIME

Where the motorist claims that they drove in the bus lane because there were no buses present

Never accepted

This is not considered an acceptable reason for being in a bus lane during its hours of operation. The Highway Code informs drivers that: "*[motorists] should not drive in a bus lane during its period of operation*"

4.5. WAS LOST

Where the motorist claims that they were driving in the bus lane because they were lost

Never accepted

This is not considered an acceptable reason for being in a bus lane during its hours of operation. The Highway Code informs drivers that: "*[motorists] should not drive in a bus lane during its period of operation*"

4.6. VISITOR/UNFAMILIAR WITH ROAD LAYOUT

Where the motorist claims that they were visiting the area or unfamiliar with the road layout

Never accepted

This is not considered an acceptable reason for being in a bus lane during its hours of operation. The Highway Code informs drivers that: "*[motorists] should not drive in a bus lane during its period of operation*"

4.7. UNAWARE OF ENFORCEMENT

Where the motorist claims that they were unaware that the contravention was enforced

Never accepted

This is not considered an acceptable reason for being in a bus lane during its hours of operation. The Highway Code informs drivers that: "*[motorists] should not drive in a bus lane during its period of operation*"

4.8. FOLLOWED SAT-NAV

Where the motorist claims that they were driving in a bus lane as they were using a sat-nav

Never accepted

This is not considered an acceptable reason for being in a bus lane during its hours of operation. The Highway Code informs drivers that: "*[motorists] should not drive in a bus lane during its period of operation*"

5. PERMITTED VEHICLE TYPES

5.1. EMERGENCY SERVICES VEHICLE

Where the motorist claims to be exempt as they were driving an emergency services vehicle

Accepted

- If the video evidence shows that the vehicle is a liveried (marked) emergency services vehicle; or
- the motorist claims that the vehicle is an unmarked emergency services vehicle; and
 - the motorist is able to supply acceptable evidence to support their claim

Not accepted

- If the evidence does not show that the vehicle is marked; and
 - the motorist does not claim that the vehicle is an unmarked emergency services vehicle

Acceptable evidence

- Letter from a commanding officer

5.2. ESSENTIAL SERVICES VEHICLE

Where the motorist claims to be exempt as they were driving an essential services vehicle

Not accepted

- If the vehicle was not undertaking statutory / essential services, at the time of the contravention; or
- the vehicle did not have to be in the bus lane to carry out the statutory / essential services

5.3. VEHICLE IS A BUS

Where the motorist claims that the vehicle is a bus and is therefore permitted in bus lanes

Accepted

- If the video evidence clearly shows that the vehicle is a bus; or
- the motorist can provide acceptable evidence to support their claim that it is a bus

Acceptable evidence

- V5 document listing the 'body type' as one of the following:
 - Bus
 - Coach

5.4. VEHICLE IS A MOTORCYCLE

Where the motorist claims that the vehicle is a motorcycle and is therefore a permitted vehicle

Accepted

- If the video evidence shows that the vehicle is a motorcycle

Not accepted

- If motorcycles are not allowed at this location

Leniency

- Motorcycles are / are not allowed in all bus lanes

5.5. VEHICLE IS A TAXI

Where the motorist claims that the vehicle is a taxi and is therefore a permitted vehicle

Accepted

- If a taxi plate, or roof-mounted sign is visible in the video evidence; or
- a taxi plate, or roof-mounted sign is **not** visible; and
 - the motorist can supply evidence to support their claim that it is a vehicle

Not accepted

- If **all** taxis are not allowed in this location; or
- the taxi is not a permitted taxi type, according to the leniency

Acceptable evidence

- Taxi licence that was valid at the time of the contravention

Leniency

- Permitted taxi types:
 - Hackney carriages / private hire vehicles / Uber/Lyft vehicles