

**Guide to when you get a Penalty Charge Notice from Merseyflow**

**THE TRAFFIC ENFORCEMENT COURT PROCESS**

1. The details of the TEC are here:

<https://courtribunalfinder.service.gov.uk/courts/traffic-enforcement-centre-tec>

Action through the TEC is designed to keep minor traffic penalties / PCNs out of the physical court system and is an administrative based process. There is no physical 'day in court' as part of the normal process.

**2. It is important that you do not ignore any communications from the TEC and ensure you submit your documents into the process. Failure to do so will likely mean HBC will get an uncontested award in their favour.** This is your opportunity to submit your side of the case for consideration.

3. After issuing a Charge Certificate against the PCN, HBC can register an unpaid charge certificate as a debt in order to get approval through the TEC for a Warrant of Control to commence recovery.

4. HBC have 15 days from registration to submit their Witness Statement. Once the registration has been made and documents submitted, the TEC will issue to you notification of the registration and documents so that you can provide your witness statement to them. You have 21 days to respond and submit the document. Ensure you keep copies of all documents submitted and also use registered post retaining the confirmation of posting/receipt.

5. After this 21 day period, it is possible to apply to have an 'out of time' statement considered. Though it is important to note that HBC do not have to agree to the TEC allowing this submission. (see the out of time section later).

6. The criteria for challenge in the Witness Statement are:

- You didn't get a 'Notice to Owner' (PCN) telling you how to make a formal representation/challenge
- You made a formal representation/challenge on time but didn't get a 'Notice of Rejection' from HBC.
- You appealed to an independent tribunal on time but didn't get a response
- You have proof you've paid the penalty charge, such as a credit card statement

7. The TEC court will consider the witness statements and evidence provided against the criteria to determine if the PCN was justified. If any one or more of the decision criteria are met then the TEC will award in favour of the vehicle owner and the following will occur:

8. If a successful Witness Statement on Notice to Owner (PCN) grounds is made, the authority (HBC) must set the penalty back (put it on hold) and send you a new Notice to Owner (PCN) allowing you to follow the proper appeals process or pay.

This ground also applies if the authority sent your penalty by post but it was not received.

9. If you made formal representations against the Notice to Owner (PCN) and this was rejected, but the Notice of Rejection of Representations was not received by you, this means that there was no opportunity to appeal to the adjudicator. If a successful Witness Statement is made on these grounds, the authority which issued the penalty must forward all documentation to the Tribunal adjudicator. The adjudicator will then decide what happens next.

10. If an appeal was made to the adjudicator but you did not hear anything, there may have been no opportunity to pay the penalty before it increased by 50% and a Charge Certificate was issued. A Charge Certificate should not be issued before your appeal is decided. If your appeal was successful, the authority should not have issued a Charge Certificate. If a successful Witness Statement is made, the case is regarded as a formal appeal. The authority must forward all documentation to the Tribunal adjudicators. The adjudicator will then decide what happens next.

11. A Charge Certificate should not have been issued if the penalty had already been paid. If a successful Witness Statement is made on this ground, the case is regarded as an appeal to the adjudicator. The authority must forward all documentation to the Tribunal Adjudicators. The adjudicator will then decide what happens next.

### **Warrant of Execution/Control for Recovery**

12. If the decision criteria are not met then the TEC will decide in favour of Merseyflow/HBC and the debt registration will be approved for recovery and a local court will electronically 'rubber stamp' the order. A Warrant of Control will be prepared by HBC within 7 days, valid for 12 months and this will be issued for recovery to Civil Enforcement Agents for execution of recovery.

13. Note that any Warrant of Control issued through this process for recovery against a PCN does not result in a County Court Judgement (CCJ) being registered, nor does it affect your credit rating. Penalty Charge Notices are outside the remit of Trading Standards. Where the debt remains unrecovered and if escalated by HBC, they may result in a CCJ at a later date.

14. The TEC cannot register charges where the respondent resides outside England and Wales. Though they can be transferred to Scotland. The TEC cannot enforce PCN's to addresses in Isle of Man, the Channel Islands, and foreign countries.

15. The TEC has no facility to take payments from respondents. Cheque payments for a PCN from the respondent at the TEC shall be returned to the respondent. Cash payments shall be banked by the TEC and a payable order returned to the respondent in due course.

16. HBC shall normally request the issue of a Warrant of Control before any other means of enforcement is attempted. HBC may in certain circumstances however, request that the registration be transferred to your local County Court for

enforcement. This is usually for the following reasons: To obtain an Order to Obtain Information; Charging Order; Third Party Debt Order; Attachment of Earnings Order Once a penalty charge has been transferred to another Court for enforcement it cannot be transferred back to the TEC.

### **‘Out of Time’ application**

17. Should you receive a notification of registration from the TEC, or a Civil Enforcement Agent that recovery action has started, AND you genuinely have NO knowledge of the PCN and have had no communications on the matter, then you can apply to the TEC to file an ‘Out of Time’ witness statement. **Ensure you do this immediately in these circumstances**

18. The criteria for an out of time application are:

- a) You were contacted about a penalty charge notice (PCN) you didn’t know about
- b) You were contacted about a paid or cancelled PCN
- c) You didn’t get a response to your formal challenge (‘representation’) or appeal

19. If a valid “out of time” is received, TEC will inform HBC and all enforcement action must be suspended immediately. A copy of the out of time application and all attached correspondence will be forwarded to HBC who then has 19 working days to respond to the application indicating whether they are going to accept or oppose it.

20. If HBC accepts the application it will be processed by TEC as if it had been received within time. The Charge registration will be revoked and the action will be passed back to the local authority (HBC). HBC will then determine if they wish to continue to pursue the process, issuing new documentation and restarting the PCN process. If HBC opposes the application the TEC will refer the case without a hearing, to a TEC court officer for a decision. Either HBC or the TEC will inform you of this. A copy of the TEC court officer order will be sent to all parties.

21. If the respondent’s application for an “out of time” submission is granted then HBC should inform the Civil Enforcement Agent of the withdrawal of the warrant forthwith (if proceedings have got that far). This will also require returning any seized property if the warrant has been executed in part or full. If the “out of time” application is refused the local authority can continue enforcing the warrant.

22. Once the TEC Court Officer has made an Order regarding the out of time application, any party affected by it may request a further judicial review of the order. Such party should complete an N244 Application form (Application Notice) within 14 days of service of the decision. There is a fee to file this application, currently £100 for District Judge, or £255 for Court Hearing though low income/benefit receivers can apply for help with court or tribunal fees (form EX160).

23. The TEC does not need to be notified if: a payment has been made in full or part, (unless subsequent action is taken, i.e. application for warrant or transfer); or an unpaid penalty charge has been settled or withdrawn. END