To whom it my concern

RE: Parking fine Infringement Number – xxxxxxx
Vehicle Registration Number - xxxxx

Introduction

I write to dispute a parking fine that has been issued to me whilst I was waiting in an orderly queue of traffic to pick up my child from Our Lady of Lourdes Primary School in Shearwin Street Sunnybank on (date) at (time).

I ask that the ticket be overturned due namely to the reasons outlined below.

Context

In order to pick up your child in a safe and efficient manner from the “front gate” the school policy is too travel the left hand side of Trudgain Street until it intersects with Shearwin Street, make a right hand turn into Shearwin Street and a left hand turn into the School pickup/car park precinct follow the one way traffic line exit left back onto Shearwin and onto Mains Road at the lights. If one was to enter the gate from Shearwin after turning from Mains Road the traffic line would bank up back through the main road. This is clearly an unacceptable option.

The consequence of this system, intended or not, is to cause a queue (defined as a line or sequence of people or vehicles awaiting their turn to be attended to or to proceed) of traffic along a small no standing section on Shearwin Street, exactly as is witnessed every day in the streets of the CBD where no standing/parking zones are prevalent yet cars simply have to queue in order to wait for facing traffic lights to turn from red to green.

Cars are waiting to enter a property, be it in a no standing or not my right to enter the property in a safe manner to pick up my child must supersede the Council’s direction on no stopping, my indicator is on and I am waiting in a queue which is beyond my control.

One cannot overtake

This brings me to my first point of defence: when I am waiting to proceed, I cannot overtake the car in front of me on the wrong side of the road or otherwise in a manner deemed safe; Shearwin Street is simply too narrow to allow for overtaking and even if it wasn’t the fact that other cars are prevalent in the area, a school zone no less, means that under no circumstances would overtaking ever be deemed safe.
Surely it cannot be the Council’s case that I can only obey one law (the one I am alleged to have breached) by breaching another (the prohibition on overtaking in an unsafe manner)?

The unconscionability of such a position is demonstrable.

**The allegation that I was stopped is in any event wrong; I was driving**

The Council alleges that I was ‘stopped’ on Shearwin Street.

This brings me to my second point of defence: the *Transport Operations (Road Use Management - Road Rules) Regulation 2009* ("the TORUM Regs") defines ‘drive’ to include ‘being in control of’, in this case, a motor vehicle.

At the time of the alleged defence my car was still running, I was behind the wheel waiting my turn and I was focussing on the road and surrounding road users throughout.

Accordingly I was ‘in control of’ my vehicle at all times.

And therefore I was not ‘stopped’ on Shearwin Street; I was ‘driving’ on Shearwin Street.

A factual element of the alleged offence that the Council must prove, clearly does not exist.

**My conduct was, in any event, totally exonerated by a statutory defence**

My third point of defence: according to s165 of the TORUM Regs *Stopping in an emergency etc. or to comply with another provision*

*It is a defence to the prosecution of a driver for an offence against a provision of this part if—*  
(e) the driver stops at a particular place, or in a particular way, to comply with this regulation, and the driver stops for no longer than is necessary to comply with the other provision*

What s.165 of the TORUM Regs clearly provides is a complete statutory defence for any driver for failing to adhere to one provision when obeying another.

Indeed the example used, word for word, in that section is “If a driver stops at an intersection at a stop line, Stop sign, or traffic lights, or to give way to a vehicle, the driver does not contravene section 170 (stopping in or near an intersection). “

Needless to say the Council is bound by the TORUM Regs: I refer you to Section 6 (*Act binds everyone, including government entities*) of the Transport Operations (Road Use Management) Act 1995 while Section 7 of the Acts Interpretation Act 1954 defines ‘acts’ to include statutory instruments under acts – of which the TORUM Regs clearly are.
Conclusion

I believe I have a complete legal defence to this ticket.

I therefore request that it be overturned.

I hope this brings the matter to a conclusion, and await your letter of confirmation accordingly.

Sincerely yours