

# contents

Foreword	3
Introduction	5
Policy Unit	6
Operational Unit	9
Parking and Traffic Appeals Service	12
TEC statistics for 2006/07	14-26
London Councils' TEC revenue accounts	27
London Councils' TEC consolidated balance sheet	28

Borough elections in May 2006 have resulted in several changes to our work on transport and the environment. Cllr Daniel Moylan, from RB Kensington & Chelsea, was elected to chair the Transport and Environment Committee. Cllr Moylan has considerable familiarity with the work of the committee having led the Conservative group on the committee for several years.

Although Cllr Moylan has had some experience of the committee's work, changes in control of some councils, retirements and other electoral changes meant that we welcomed 27 new members to the committee in June 2006. Changes of this magnitude have resulted in different priorities for work and different approaches which will last much longer than a single year.

New arrangements for power sharing among the London boroughs overall have resulted in a change of name from the Association of London Government to London Councils, a name which more closely reflects the activities of the organisation. This change of name has followed through to the Transport and Environment Committee. This demonstrates too a very clear commitment to ensuring a strong collective view among all the boroughs.

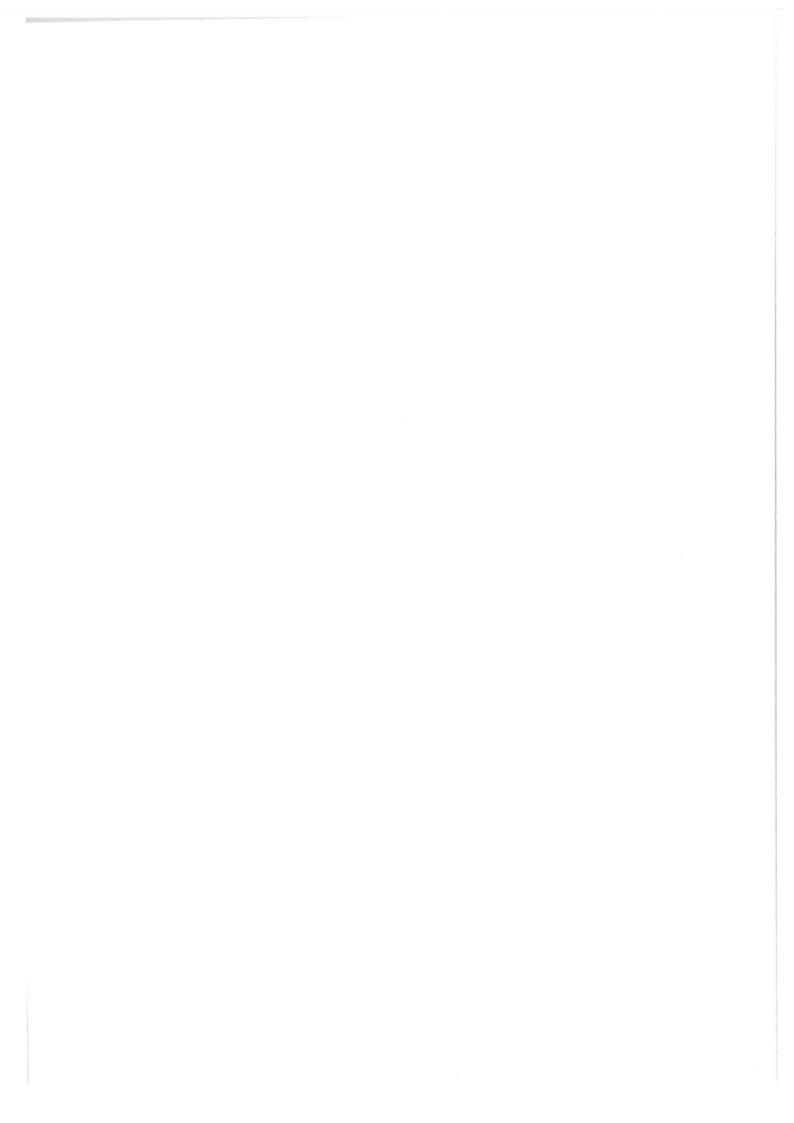
Dominating much of our work during the year has been the review of the Greater London Authority's (GLA's) powers and the very significant potential changes in waste management in the capital. While the consultation period ended at the start of the year, the government's announcement of change in July 2006 foreshadowed a bill which entered Parliament in November. This bill is to be enacted during 2007/08. The government's decision not to create a single waste disposal authority for London, and its commitment to that decision during a protracted period while the bill was in Parliament, represent a considerable achievement by London Councils on behalf of the boroughs.

The second major achievement of the committee during the year was the review of additional parking charges and the introduction of a new, two tier differential penalty system. This approach responded to concerns by the public and recommendations of the House of Commons Transport Committee and the London Assembly.

Subsequent sections of this report show the other major achievements of the committee and London Councils during the year which, again, show a very wide range of activity.

#### Nick Lester

Director of transport, environment and planning



London Councils is committed to fighting for more resources for London and getting the best possible deal for London's 33 councils. Part think-tank and part lobbying organisation, London Councils also runs a range of services all designed to make life better for Londoners.

Many of those services are transport-related and are run by London Councils' Transport and Environment Committee (London Councils' TEC) which includes Transport for London (TfL) as well as the 33 London boroughs. They include two concessionary fares schemes that provide benefits to more than a million Londoners, a lorry control scheme designed to keep heavy lorries away from residential roads at night and at weekends, various parking enforcement services and an adjudication service for appeals against parking and other penalty notices.

The Policy unit is based at London Councils' main offices at 59½ Southwark Street, close to London Bridge. It provides a policy framework for the range of activities carried out by TEC.

The work includes:

- lobbying for more money for boroughs to spend on transport and environmental initiatives
- seeking new or improved powers for London councils to tackle common problems
- running a comprehensive seminar and events programme on transport, planning, public protection and environment issues
- representing borough views and concerns on government policies and the Mayor's strategies
- developing new approaches including new London-wide initiatives - on specific issues.

London Councils' TEC Operations is based at New Zealand House in Haymarket, close to Trafalgar Square and is responsible for a number of transport functions, including:

Freedom Pass The Freedom Pass is the UK's most generous concessionary fares scheme and entitles a million Londoners over the age of 60 or with disabilities to travel free on the capital's buses, tubes and trains. London's 33 councils pay a total of £198 million a year to fund the scheme.

**Taxicard** is a door-to-door transport service offering subsidised travel in licensed taxicabs for people with serious mobility impairment, who have difficulty in using buses, trains and tubes. It is available 24-hours a day, seven days a week and is paid for by the 32 participating London councils, and the Mayor.

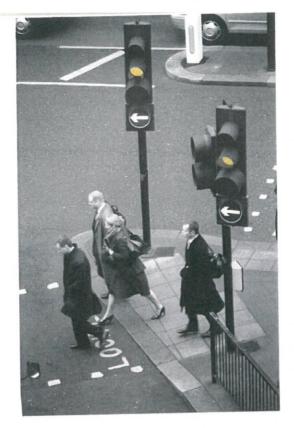
**London Lorry Control Scheme** This is designed to protect the peace of Londoners by restricting the number of lorries using residential roads at night and at weekends.

Health Emergency Badge Scheme A vehicle badging scheme to make it easier for doctors and health works to park while attending medical emergencies.

Parking and traffic enforcement services London Councils' TEC is the approving authority for new parking and traffic enforcement services in London. This includes managing a number of services on behalf of the London boroughs, including TRACE - a 24-hour, seven days a week telephone service giving information about cars that have been towed away.

The Parking & Traffic Appeals Service (PATAS) - also based in New Zealand House - uses a team of independent adjudicators to determine appeals against parking and other penalty charge notices (PCNs) issued by boroughs and TfL. PATAS also handles appeals against congestion charge penalties, on behalf of the Greater London Authority.

As well as running services directly, London Councils' TEC works in partnership with other agencies on a variety of services including Capital Standards (improving the cleanliness of London's streets) and the London Safety Camera Partnership (providing and operating speed cameras at London's accident black spots). It also has the contract to provide the Consumer Direct service in London on behalf of the government which provides trading standards advice and information to the public.



The policy unit provides a policy framework for the range of activities carried out by London Councils' TEC. This includes working with government, the Mayor and the London Assembly, Transport for London (TfL) as well as other stakeholders to implement initiatives to improve the quality of life for London's residents, business and visitors.

#### Our work includes:

- lobbying for more money for boroughs to spend on transport and environment initiatives
- seeking new or improved powers for London councils to tackle common problems
- running seminars and events on transport, planning, public protection and environment issues
- representing borough views and concerns on government policies and the Mayor's strategies
- developing new approaches including new London-wide initiatives - on specific issues.

#### during 2006/07...

We represented boroughs' views and concerns on central government policies and strategies. We worked and lobbied on several items of proposed legislation including the Greater London Authority Bill (in relation to planning and waste issues) and the Concessionary Bus Travel Bill. We also continued to promote the 9th London Local Authorities Bill.

#### transport policy

#### In 2006/07, we:

- agreed the Freedom Pass settlement for 2007/08 before the statutory 31 December 2006 deadline as well as a new three-year framework deal for the TfL element to cover 2007/08 - 2009/10
- carried out a public consultation on the level of parking charges in London and a public opinion survey on differential parking penalties. TEC agreed to implementing differential parking penalties in London from 1 July 2007 - the first time this will be done on a city-wide basis
- increased the number of slots available for borough sponsored traffic signal schemes
- undertook research to identify London borough rail priorities and the extent to which these are reflected in regional and national rail priorities
- continued the management and development of the TRAVL database
- held an event for borough officers to discuss TfL's business plan and future planning
- collated responses from boroughs to develop a London Councils' response to TfL's draft T2025 strategy document
- developed a more regular schedule of high level meetings for TEC elected officers to discuss matters of transport strategy with TfL's Commissioner, Peter Hendy
- participated in, and hosted working group meetings for, a TfL project to write new guidance for boroughs to submit LIPs claims for Area Based Schemes, Station Access schemes and Local Accessibility schemes
- Responded to consultations on
- London Freight Plan
- TMA 2004 regulations relating to intervention criteria, notices, FPNs, s74, permit schemes and parking
- Olympic transport plan
- Proposals for the Mayor of London's rail powers beyond the London boundary.

#### planning policy

#### In 2006/07, we:

- submitted evidence to and appeared at the Examination in Public (EiP) for the South East of England Regional Spatial Strategy
- consulted with boroughs on proposed changes to the GLA London development database

- undertook research on the value of Section 106 contributions to London to inform the debate on Planning Gain Supplement
- submitted responses to the Further Alterations to the London Plan and the minor waste alteration to the London Plan

#### public protection policy

#### In 2006/07, we:

- continued to work alongside other local government representatives to lobby government on the implementation arrangements for the new Licensing Act with particular regard to the Statutory Guidance and the fees regime
- commissioned independent research and submitted detailed proposals to the independent panel set up to review fees set under the Licensing Act 2003, proposing an alternative fees structure for London which better achieves cost recovery for London's authorities and ensures that the 'polluter pays' principle is better applied in the fees structure
- updated the joint London Councils/LFEPA protocol on the implementation of the Licensing Act 2003 to reflect changes to Fire Safety legislation
- set up a Licensing and Trade Forum to facilitate more effective dialogue between licensing authorities and the licensing trade representative bodies as well as a senior officer consultative forum, the Licensing sub-group
- held a gambling workshop for borough officers bringing together DCMS, the Gambling Commission and the Trade to help officers better understand the implications of the Gambling Act 2005 ahead of the commencement of the transition period
- continued to engage with DCMS, Gambling Commission, trade and other local government representative bodies to develop the transitional arrangements for the implementation of the Gambling Act 2005 and submitted responses to a number of government consultation documents on the Gambling Act 2005
- continued to manage, on behalf of the Office of Fair Trading, Consumer Direct London, the regional contact centre for consumer advice and information. The contact centre is provided under contract to London Councils by bss.

#### environment policy

#### In 2006/07 we:

- concluded and signed-off the Waste Cost Modelling for London Project and disseminated the finding at an event that brought together all the key borough, GLA, industry and government stakeholders to make the case for the levels of funding required for waste management and disposal in London over the next 15 years
- provided a detailed response to the government's consultation on the review of England's waste strategy and on implementation of the Waste Electrical and Electronic Equipment (WEEE)
   Directive in the UK. On the latter, carried out sustained engagement with government officials on implementation particularly in relation to the timetabling
- made written and verbal representations to the EiP Panel reviewing the GLA's Early Alterations to the London Plan (Waste and Minerals) culminating in Panel report recommendations requiring a rethink of borough waste apportionment and the deletion of the unreasonable references to numbers of facilities required and the associated land take projections
- secured pan-London agreement for approach to the use of new fixed penalty powers under the Clean Neighbourhoods and Environment Act 2005 in order to facilitate effective enforcement and consistency of approach across London
- agreed fixed penalty levels under the London Local Authorities Act 2004 to give borough officers new powers to tackle low level noise nuisance, illegal advertisements and street trading offences
- contributed to the work of the London Climate Change Partnership to raise the issue of climate change and its impacts and initiated a Londonwide borough officers' group to help shape borough approaches to climate change and energy policy
- made representations to government about the potential impacts of restrictions on commercial and community water use in response to Thames Water Utility's application for a Drought Order culminating in the withdrawal of the application
- worked through partnerships involving regional bodies and other local government representatives to develop a pan-London response to an emergency drought situation

- contributed to the early work of the Thames River Basin District Liaison Panel working on implementing the EU Water Framework Directive in the Thames area
- responded to the Mayor's consultation on revisions to his air quality and transport strategies in readiness for a proposed low emission zone for London
- worked with borough officers and the GLA, in consultation with industry, to produce a Best Practice Guidance on the control of dust and emissions from construction and demolition
- responded on behalf of boroughs to Defra's review of the UK Air Quality Strategy
- updated the London Councils Air Quality and Planning Guidance for boroughs.

For more information contact Stephen Benton, head of policy, transport environment and planning, on 020 7934 9908 or stephen.benton@londoncouncils.gov.uk



The Operational Unit is based at New Zealand House in the Haymarket, from where it manages the London concessionary fares scheme and a number of other transport and traffic-related services.

#### Freedom Pass

The concessionary fares scheme for London is funded by all the London boroughs and is badged as the Freedom Pass. It continues to be UK's largest and most generous concessionary fares scheme and is a model for similar schemes provided nationally in Scotland and Wales.

The scheme enables more than a million Londoners aged 60 or over, and people with eligible disabilities, to travel free of charge on buses, tubes, trams and trains throughout the capital. The statutory requirement set out in legislation changed on 1 April 2006 to offer free travel on buses instead of a 50 per cent minimum discount.

In 2006/07 London's 33 councils paid the two main transport operators (ATOC and TfL) £214 million to allow Freedom Pass holders to use their transport networks. How much each borough pays is based on the number of Freedom Pass holders living in that borough.

London Councils TEP (Transport, Environment and Planning) negotiates and manages the delivery of the Freedom Pass scheme; being responsible for ticket issue and publicity. There is a variety of published information about the scheme and a dedicated website www.freedompass.org

#### during 2006/07:

- Freedom Pass, is a smart ticket using Oyster technology. It has proved to be highly popular with customers who find accessing the transport system much easier than with the old paper tickets
- hot-listing, the process that enables London Councils to stop usage of lost or stolen passes, has proven extremely effective in reducing the number of fraudulent passes in circulation. This has substantially reduced the potential level of fraud

- the 2006 Reissue and Apportionment period ran from February 2006 to September 2006. The majority of passes were issued at the Post Office using their Horizon computerised counter system.
   For the first time data was transferred overnight to London Councils' Freedom Pass Oracle database for processing instead of being sent monthly
- the Reissue involved placing stickers dated 31 March 2008 over the current expiry date rather than issuing new passes as the current passes are encoded to work until 2010. All non-renewed passes were then hot-listed
- around 930,000 older and 120,000 disabled passes were issued during the 2006 apportionment period
- discussions began between London Councils, the Department for Transport (DfT) and other local authorities in England on how to plan for the introduction of a national concessionary fares scheme for local buses due to start in April 2008.

#### Taxicard

The Taxicard scheme provides subsidised door-to-door transport in licensed taxis and private hire vehicles (PHVs) to nearly 77,000 London residents with serious mobility problems. The scheme ensures that people who find it difficult to use public transport can still get out and about, travelling when and where they want, thereby offering them an improved degree of independence.

Taxicard is available 24-hours a day, seven days a week and is paid for by 32 of the 33 London authorities (Westminster, the only borough not in Taxicard, has its own scheme). The scheme is jointly funded by the London boroughs and the Mayor of London, bringing the total spending on Taxicard to more than £14 million a year.

Taxicard used in excess of 6,000 licensed vehicles to make 1.29 million trips. London Councils has a dedicated Taxicard team that processes membership applications, issues Taxicards to members, and runs a weekday helpdesk. There is also a website www.taxicard.org.uk

#### during 2006/07:

- there was a further year-on-year growth of around 14 per cent increase in trips and 12 per cent in membership. London Councils continued working closely with Transport for London (TfL) to ensure that their funding contribution offered real benefits to users. Building on this momentum the contractor continued to increase the number of taxis and PHVs to improve punctuality in areas where licensed taxis are scarce. 97 per cent of bookings result in a trip being made, but efforts continued to reduce member waiting times
- work began on retendering the for the Taxicard contract which runs out on 30 September 2007.
   By the end of 2006/07 pre-qualification questionnaires had been evaluated and tender documents issued to prospective tenderers
- TfL announced that they wish to introduce an integrated Dial a Ride and Taxicard door-to-door service. London Councils and boroughs expressed concern about TfL's ability to provide an efficient combined service given current problems with the Dial a Ride service. London Councils recommends that future integration should include other statutory door-to-door services such as local borough transport, Patient Transport Services and Community Transport.

#### Lorry Control Scheme

The Lorry Control Scheme aims to ease traffic noise in residential areas by controlling the movement of lorries over 18 tonnes during the night (9pm to 7am) and at weekends (1pm Saturdays through to 7am Mondays). During the restricted times, hauliers need special permits to be allowed to use their lorries on all but a very limited number of roads on a regulated basis.

London Councils' Lorry Control Unit manages the scheme, publishing the London Lorry Map (which shows the roads affected by the scheme), advising hauliers on appropriate routes and issuing permits for essential journeys. The Lorry Control Unit is also responsible for ensuring compliance with the scheme through the work of a team of enforcement officers who monitor vehicle movements at strategic locations across London, by the roadside and through mobile patrols and the use of cameras. Each year these officers observe and record sightings of over 7,263 lorries on restricted

roads and drivers and operators of vehicles who do not have a permit, or who are not complying with the permit conditions, may be issued with a Penalty Charge Notice (PCN).

#### during 2006/07:

The Lorry Control Unit processed 277 new applications, which resulted in 175 new operators joining the scheme. The number of operators with vehicles with current permits is nearly 3,000, and during the year the unit issued a total of just over 49,097 permits. The Lorry Control enforcement team issued over 2,979 PCNs to operators and drivers who were either using lorries with no permit at all or not complying with the permit conditions.

A Notice of Proposals was published to implement TEC's approved amendments to the Traffic Management Order that governs the London Lorry Control Scheme.

The tender process to contract bailiff services for the London Lorry Control Scheme was completed and bailiffs were appointed to collect outstanding debts.

#### Health Emernency Badge Scheme

London Councils runs the Health Emergency Badge (HEB) scheme which provides badges for doctors and other health workers to display in their vehicles when attending emergency situations. Badges, which are valid for two years, are issued on a limited basis to qualifying practices in order to help eligible health workers perform their duties. While it has no legal status, parking authorities will generally not issue tickets to a vehicle that is displaying the HEB badge.

#### during 2006/07:

Applications for 1,868 HEBs were received, which resulted in 1,735 badges being issued.



#### Parking Services

London Councils' TEC is the approving authority for new parking and traffic enforcement services in London. It also manages a number of services on behalf of the London boroughs. These include:

- TRACE, which provides a single point of contact to locate cars that have been towed away
- computer links to the Traffic Enforcement Centre, which provides a system for parking authorities to initiate debt recovery proceedings in the County Court against people who have not paid their penalty charges
- computer links to the DVLA (Driver Vehicle Licensing Authority), which provides a gateway for boroughs wishing to obtain or check a vehicle's registered keeper
- PIE (Payment Information Exchange), which offers motorists the opportunity to pay fines at locations other than in the borough where the offence took place.

In addition, we publish a parking code of practice and the Parking Attendant's Handbook, both of which provide detailed advice and guidance on traffic enforcement issues to the boroughs and other interested parties. We also provide large amounts of information to the public on parking, including leaflets in different languages aimed at tourists.

#### during 2006/07:

- London Councils' TEC approved the revised versions of the Code of Practice on Civil Parking and Traffic Enforcement and the Code of Practice for Operation of CCTV Enforcement Cameras. The codes were subsequently issued to boroughs and the Department for Transport, who have used them substantially as a basis for the statutory guidance to be issued under the Traffic Management Act 2004
- work commenced to investigate the requirement of a central communications and processing hub for mobile phone parking providers across London
- development of a database for reporting lost, stolen and fraudulent blue badges continued
- the process of updating and reissuing London Councils' guidance leaflets relating to parking continued. The current version of all leaflets is available on London Councils' website
- advice and guidance to the boroughs continued, particularly with regard to the wording on penalty charge and other parking notices.

For more information contact Ron Beckett, head of operations, transport environment and planning, on 020 7747 4780 or ron.beckett@londoncouncils.gov.uk



London Councils' TEC, as a committee of London local authorities enforcing decriminalised parking and traffic restrictions, has a statutory duty to provide an administrative and hearing centre service for the Parking Adjudicators. The Parking Adjudicators constitute an independent tribunal established by the 1991 Road Traffic Act to consider appeals against liability for penalty charge notices issued by the enforcing authorities. London Councils' TEC fulfils its statutory function via the Parking and Traffic Appeals Service (PATAS).

London Councils' TEC also provides, via PATAS and on behalf of the Greater London Authority, an adjudication service for motorists appealing to the Road User Charging Adjudicators against congestion charge penalties issued in central London. Parking and Road User Charging Adjudicators form separate tribunals with separate jurisdictions. While PATAS endeavours to provide a seamless service to all tribunal users, due regard is paid to their separate entities and their separate sitting and case management requirements.

#### Report for the year 1 April 2006 -

This year, PATAS staff have continued to provide a high quality administrative service to both the Parking and the Road User Charging Adjudicators. This has been done in the context of an increased workload: the Parking Adjudicators' caseload rose from 52,714 to 57,040. Although the Road User Charging Adjudicators' caseload decreased over the whole year, the implementation of the western extension of the Congestion Charging zone in February 2007 brought an upturn in numbers received towards the end of the reporting year. The continuing priority for PATAS has been to

deliver an efficient, responsive service. However, work has also been carried out to refine systems and procedures in order to improve the service offered and PATAS staff have contributed extensively to the process of re-letting the London Councils contract for IT and managed services.

#### Service delivery

As described in the Parking Adjudicators' annual report, the number of appeals submitted to the Adjudicators increased by 4,326 (8.2 per cent) over the previous reporting year. The number of cases dealt with by the Adjudicators also increased significantly: by 8,057 (14.7 per cent) over the previous reporting year.

One of the ways in which PATAS has handled this increase efficiently is by re-organising and streamlining the workload of the small PATAS team of service administration and case management staff, in order to make the best use of resources and skills.

Regular PATAS newsletters, containing statistics and topical items have been posted on the website, and a new PATAS e-mail address has been established for local authority staff and the public to communicate directly with the case management team (patasteam@patas.gov.uk). PATAS also held a very well-attended seminar for local authority staff in November 2006 at which last year's annual reports were presented and a number of procedures and possible enhancements to the adjudication systems were discussed.

The head of PATAS accompanied the chief adjudicators to the annual conference of the Council on Tribunals: the theme of the conference, as described in the Parking Adjudicators' annual report, was the importance of feedback from the tribunal and how this can improve first line decision making. The feedback mechanisms and methods utilised by PATAS on behalf of the Adjudicators (newsletters, seminars, website) measured up well to the standards set by the Council and will be maintained and developed in the coming year.

#### Enhancements to the computerised adjudication system

Although, in the final year of operation of the outsourcing contract it would not have been prudent to embark on large scale system enhancements, a number of minor changes were made to refine the system and enhance the service offered to Adjudicators. One of these was to streamline and automate more fully the way in which Adjudicators direct administrative staff to carry out specific administrative functions on particular cases, including the enhancement of the facility to 'bring forward' for action on a specific future date or after a specific period of time.

At the same time, a re-ordering of the way cases ready for adjudication are presented to the Adjudicators was implemented to reflect their current procedures without the necessity of intervention by the administrative staff.

#### Adjudicators' statutory registers

The regulations governing the work of both the Parking and the Road User Charging Adjudicators require them to keep a statutory register of all appeals received. These registers are to be kept at the office of the adjudicators and be available for inspection. The regulations specify that the register need not be kept in legible format. In accordance with these regulations, both registers have been kept in electronic format since the establishment of the tribunals and fulfilment of the requirement to allow inspection has been achieved by producing a copy of the relevant register entry requested. However, in March 2007, this aspect of the service was enhanced by enabling the full register for each tribunal to be displayed on a computer terminal in the main hearing centre. It is possible for users to search

the electronic register by a number of categories, or to browse the register by date. This facility has been well regarded by all the members of the public and local authority staff who have used it. In the coming year, it is intended to develop the initiative further to make the full registers available for inspection via the PATAS website.

In addition to these developments, the work on the project to re-let the service contract has included detailed specification of a number of major developments to be delivered as part of the new contract which came in to force on 4 July 2007. These projected developments include the ability to inspect the statutory register online as described above; the ability to submit appeals and evidence online; the ability for Adjudicators to consider postal appeals remotely (i.e. away from the central London hearing centre); and the ability for adjudicators to conduct remote oral appeal hearings from the hearing centre using video technology.

In the coming year, a number of developments will be required to manage the changes to the adjudication service required by the introduction of Low Emission Zone enforcement by TfL and by the implementation of the Traffic Management Act 2004. The service developments carried out this year and the plans made for further service developments in the coming months should enable us to respond efficiently and cost effectively to these changes.

#### adjudicators' annual reports

The Parking Adjudicators' report for the year 2006/07 is presented separately. The Road User Charging Adjudicators' report will be submitted to the Secretary of State shortly. Both reports will be published on the PATAS website.

The Road User Charging Adjudicators have made two recommendations to Transport for London regarding their statutory duties under the Scheme Order and the law on 'service' of notices - however, these have no bearing on the work of PATAS.

The Parking Adjudicators have made no recommendations this year.

#### Taxicard and Freedom Pass

#### Taxicard and Freedom Pass active members

	<b>Taxicard</b> average number of members	Freedom Pass average number of members
Barking and Dagenham	3,069	21,545
Barnet	2,844	50,846
Bexley	1,145	40,098
Brent	4,066	38,460
Bromley	1,638	55,685
Camden	4,411	28,734
City of London	221	1,328
Croydon	2,520	52,064
Ealing	2,025	43,611
Enfield	1,125	40,438
Greenwich	1,476	30,259
Hackney	3,319	23,326
Hammersmith & Fulham	2,983	20,524
Haringey	2,170	29,711
Harrow	3,636	36,640
Havering	3,373	43,691
Hillingdon	1,559	38,258
Hounslow	1,933	29,970
Islington	2,514	25,235
Kensington and Chelsea	1,942	21,463
Kingston Upon Thames	1,117	22,263
Lambeth	2,894	30,771
Lewisham	1,362	33,389
Merton	2,197	26,768
Newham	3,844	27,122
Redbridge	5,344	36,526
Richmond Upon Thames	1,131	27,241
Southwark	2,140	29,579
Sutton	1,063	29,118
Tower Hamlets	1,851	21,028
Waltham Forest	3,490	29,622
Wandsworth	2,582	33,836
Westminster	0	30,832
Total	76,984	1,049,975

#### enforcement activity 2006/07

Enforcing Authority	Parking PCNs	Bus lane PCNs	Moving Traffic PCNs	London Lorry Control Scheme (Operators)	London Lorry	Control Scheme (Drivers)	Total PCNs	London Lorry Control Scheme	(observations) Total vehicles	clamped Total Vehicles removed to pound
London Councils				2,405	57	2	2,977	5,87	4	
Barking & Dagenham	50,694	5,390					56,084			
Barnet	115,275	34,690				24	149,965			
Bexley	55,564	2,043					57,607			
Brent	102,267	11,999				:	14,266			5,894
Bromley	59,213	9,974					69,187			-,,
Camden	434,646	15,324	109,186			5	59,156		8,113	8,869
City of London	38,721	67	7,632				46,420		1,230	
Croydon	107,856	1,213	16,564			1	25,633		-,	1,753
Ealing	172,558	35,607	28,320				36,485			516
Enfield	120,517	539	6				21,062		3	
Greenwich	54,603						54,603			1,700
Наскпеу	137,067	6,340	3,936				47,343		6,183	4,230
Hammersmith & Fulha	m 138,450	7,778	5,345				51,573		0,103	5,156
Haringey	160,768	16,671	25,744				03,183		5,053	
Harrow	80,644	9,235	9,705				99,584		3,033	4,540
Havering	35,688						35,688		17	5
Hillingdon	47,361	8,678	2,916				58,955		17	
Hounslow	66,270						56,270			1,785
Islington	264,241	61,494	11,754				37,489		1,142	
Kensington & Chelsea	300,650						00,650		14,582	9,443
Kingston	50,366	4,489					64,855		14,502	9,443
Lambeth	260,336	27,895	28,358				6,589		8,459	8,799
Lewisham	48,555	7,184	0				5,739		0,439	0,799
Merton	51,969	12,311					4,280			
Newham	191,150	32,232	26,821				0,203			2,232
Redbridge	97,239						7,239			2,232
Richmond	69,258	14,092					3,350			
Southwark	129,334	2,980	12,982				5,296		5,810	2,598
Sutton	36,321						6,321		3,010	2,390
Tower Hamlets	73,596	9,869	4,069				7,534			2,211
Waltham Forest	128,907	6,241	5,905				1,053		6,038	
Wandsworth	228,513	13,989	4,066				6,568		0,036	5,209 3,078
Westminster	809,652	1,595	12,584				3,831		15,306	20,036
Transport for London	467,523	95,551	102,619				5,693		13,300	3,922
TOTAL	5,185,772	455,470	418,512	2,405	572	6,062		5,874	71,936	95,500

#### appeals to the parking and traffic adjudicators

Parking appeals 2006/07 (PCN, clamp, remove)

	Appeals received	Statutory declarations received	Total completed	Appeals allowed	Of which not contested	Appeals refused	Of which withdrawn	% allowed (inc dnc)	% not contested
Barking and Dagenham	262	0	383	196	41	187	2	51%	11%
Barnet	1290	48	1641	1395	819	246	1	85%	50%
Bexley	257	28	370	218	50	152	0	59%	14%
Brent	728	32	794	522	213	272	2	66%	27%
Bromley	838	88	1023	678	294	345	2	66%	29%
Camden	2429	440	3222	1482	701	1740	22	46%	22%
Corporation of London	719	42	799	516	130	283	1	65%	16%
Croydon	627	86	705	287	106	418	8	41%	15%
Ealing	1479	110	1824	1458	720	366	1	80%	39%
Enfield	411	71	486	180	70	306	2	37%	14%
Greenwich	338	1	338	180	85	158	4	53%	25%
Hackney	2187	12	2255	1946	1001	309	7	86%	44%
Hammersmith & Fulham	1050	55	1233	585	198	648	10	47%	16%
Haringey	974	0	1088	733	335	355	4	67%	31%
Harrow	675	69	912	333	177	579	5	37%	19%
Havering	240	17	287	202	152	85	1	70%	53%
Hillingdon	203	46	312	138	82	174	2	44%	26%
Hounslow	738	26	907	426	206	481	11	47%	23%
Islington	2783	65	2826	1646	677	1180	16	58%	24%
Kensington and Chelsea	2343	176	2668	1323	616	1345	18	50%	23%
Kingston Upon Thames	417	0	495	178	44	317	0	36%	9%
Lambeth	2346	0	2291	1601	690	690	13	70%	30%
Lewisham	328	37	463	271	108	192	1	59%	23%
Merton	312	0	339	236	78	103	1	70%	23%
Newham	1039	195	1317	651	239	666	3	49%	18%
Redbridge	550	25	623	362	175	261	3	58%	28%
Richmond Upon Thames	492	70	645	413	197	232	1	64%	31%
Southwark	2256	0	2275	1909	1360	366	1	84%	60%
Sutton	269	24	361	122	24	239	2	34%	7%
Tower Hamlets	680	13	807	507	160	300	2	63%	20%
Transport for London	3324	334	3313	2076	933	1237	20	63%	28%
Waltham Forest	1206	32	1253	773	314	480	2	62%	25%
Wandsworth	1818	3	2450	1283	731	1167	13	52%	30%
Westminster	15876	429	15645	13753	6820	1892	90	88%	44
Totals for London:	51,484	2,574	56,350	38,579	18,546	17,771	271	68%	33%

<b>Parking</b>	appea	ls -	costs
----------------	-------	------	-------

running appeals – tosts	Costs applications from appellant	Costs applications from local authority	Allowed from appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
Barking and Dagenham	2	0	0	£0	0	£0	2	0
Barnet	10	1	5	£349.58	1	£47.13	5	0
Bexley	2	0	1	£84.00	0	£0	1	0
Brent	1	0	0	£0	0	£0	1	0
Bromley	2	0	0	£0	0	£0	2	0
Camden	14	8	5	£448.79	7	£374.16	9	1
Corporation of London	3	0	2	£111.85	0	£0	1	0
Croydon	2	1	0	£0	1	£65.63	2	0
Ealing	5	2	1	£38.10	2	£137.13	4	0
Enfield	0	1	0	£0	1	£56.38	0	0
Greenwich	0	0	0	£0	0	£0	0	0
Hackney	10	0	6	£571.30	0	£0	4	0
Hammersmith & Fulham	4	2	1	£47.00	2	£126.53	3	0
Haringey	6	1	3	£138.90	1	£75.00	2	0
Harrow	2	1	0	£0	1	£65.63	2	0
Havering	1	1	0	£0	1	£237.26	1	0
Hillingdon	1	0	0	£0	0	£O	1	0
Hounslow	2	0	1	£18.50	0	£O	1	0
Islington	5	1	2	£97.25	1	£87.86	3	0
Kensington and Chelsea	6	1	2	£105.15	1	£47.13	4	0
Kingston Upon Thames	2	0	1	£15.00	0	£O	1	0
Lambeth	9	0	5	£365.85	0	£0	4	0
Lewisham	1	1	0	£0	1	£47.13	1	0
Merton	5	0	3	£137.42	0	£0	2	0
Newham	4	1	2	£52.75	1	£47.13	2	0
Redbridge	1	1	1	£28.80	1	£47.13	0	0
Richmond Upon Thames	3	1	2	£207.07	1	£70.63	1	0
Southwark	1	0	1	£8.50	0	£0	0	0
Sutton	0	1	0	£0	1	£65.63	0	0
Tower Hamlets	2	0	0	£0	0	£0	2	0
Transport for London	8	1	1	£124.50	1	£65.63	7	0
Waltham Forest	8	0	7	£662.93	0	£0	1	0
Wandsworth	6	0	4	£196.25	0	£0	2	0
Westminster	50	0	20	£1,439.30	0	£O	30	0
Totals for London:	178	26	76	£5,248.79	25	£1,663.12	101	1

Parking appeals – reviews	decisions							ty		ıty
	Applications from appellant	Applications by local authority	Accepted from appellant	Accepted from local authority	Rejected from appellant	Rejected from local authority	Review allowed from appellant	Review allowed from local authority	Review refused from appellant	Review refused from local authority
Barking and Dagenham	13	0	5	0	8	0	3	0	2	0
Barnet	43	0	26	0	21	0	6	0	15	0
Bexley	13	3	3	3	11	1	1	1	2	2
Brent	13	0	8	0	5	0	1	0	2	0
Bromley	15	10	5	8	10	2	4	1	1	4
Camden	121	8	38	8	84	0	12	4	17	2
Corporation of London	12	7	8	4	4	3	4	1	2	0
Croydon	16	5	7	4	11	1	3	0	4	2
Ealing	29	1	12	0	17	0	5	0	1	0
Enfield	21	4	6	3	15	1	0	0	5	3
Greenwich	5	0	2	0	4	0	1	0	0	0
Hackney	17	0	4	0	12	0	2	0	0	0
Hammersmith & Fulham	45	7	17	6	30	2	7	4	6	1
Haringey	22	0	4	0	18	0	2	0	1	0
Harrow	26	1	5	1	21	0	3	0	1	1
Havering	6	0	4	0	2	0	1	0	0	0
Hillingdon	9	3	2	2	7	0	0	0	1	0
Hounslow	26	1	8	1	17	0	3	1	1	0
Islington	72	1	22	0	48	1	7	0	7	0
Kensington and Chelsea	78	3	22	2	59	1	6	0	11	1
Kingston Upon Thames	17	1	3	1	13	0	2	1	0	0
Lambeth	61	2	16	2	45	0	9	1	4	1
Lewisham	13	1	5	1	8	0	4	1	0	0
Merton	10	9	3	8	6	0	2	5	0	1
Newham	49	1	14	1	37	0	9	0	4	1
Redbridge	14	1	6	1	8	0	3	1	3	0
Richmond Upon Thames	20	0	8	0	12	0	5	0	1	0
Southwark	28	1	8	1	22	0	4	0	3	0
Sutton	9	1	1	1	8	0	1	0	0	1
Tower Hamlets	17	1	5	0	13	1	0	0	1	0
Transport for London	92	0	37	0	56	0	15	0	9	0
Waltham Forest	31	1	9	1	24	0	3	0	2	0
Wandsworth	63	2	19	2	44	0	6	1	11	1
Westminster	136	3	39	3	97	0	16	2	11	0
Totals for London:	1,162	78	381	64	797	13	150	24	128	21

#### Bus lane appeals 2006/07

	Appeals received	Statutory declarations received	Total completed	Appeals allowed	Of which not contested	Appeals refused	Of which withdrawn	% allowed (inc dnc)	% not contested
Barking and Dagenham	19	0	11	6	0	5	0	55%	0%
Barnet	247	38	280	140	61	140	1	50%	22%
Bexley	17	9	31	2	0	29	0	6%	0%
Brent	55	8	70	38	14	32	0	54%	20%
Bromley	72	25	116	56	11	60	1	48%	9%
Camden	35	7	54	18	9	36	0	33%	17%
City of London	3	1	1	1	0	0	0	100%	0%
Croydon	5	4	9	3	0	6	0	33%	0%
Ealing	221	0	306	204	103	102	4	67%	34%
Enfield	2	5	10	2	0	8	0	20%	0%
Hackney	40	0	39	30	19	9	0	77%	49%
Hammersmith & Fulham	54	13	89	23	6	66	0	26%	7%
Haringey	43	0	62	33	13	29	0	53%	21%
Harrow	59	13	86	26	2	60	0	30%	2%
Hillingdon	17	3	32	16	13	16	1	50%	41%
Islington	59	3	97	48	13	49	0	49%	13%
Kingston Upon Thames	15	0	18	9	3	9	0	50%	17%
Lambeth	134	0	134	65	24	69	1	49%	18%
Lewisham	28	0	24	8	0	16	1	33%	0%
Merton	35	0	35	28	6	7	0	80%	17%
Newham	94	18	126	57	22	69	0	45%	17%
Richmond Upon Thames	65	11	88	35	4	53	0	40%	5%
Southwark	30	0	33	16	9	17	0	48%	27%
Tower Hamlets	45	3	64	38	8	26	0	59%	13%
Transport for London	497	157	695	239	45	456	6	34%	6%
Waltham Forest	34	3	37	20	6	17	0	54%	16%
Wandsworth	32	0	39	14	6	25	2	36%	15%
Westminster	8	0	7	7	5	0	0	100%	71%
Totals for London:	1,965	321	2,593	1,182	402	1,411	17	46%	16%

#### Bus lane appeals - cost decisions

	Costs applications from appellant	Costs applications from local authority	Allowed for appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
Barking and Dagenham	1	0	0	£0.00	0	£0.00	1	0
Barnet	1	2	1	£80.00	2	£103.51	0	0
Bexley	0	0	0	£0.00	0	£0.00	0	0
Brent	2	0	2	£102.75	0	£0.00	0	0
Bromley	1	0	0	£0.00	0	£0.00	1	0
Camden	0	0	0	£0.00	0	£0.00	0	0
City of London	0	0	0	£0.00	0	£0.00	0	0
Croydon	0	0	0	£0.00	0	£0.00	0	0
Ealing	0	1	0	£0.00	1	£47.13	0	0
Enfield	0	0	0	£0.00	0	£0.00	0	0
Greenwich	0	0	0	£0.00	0	£0.00	0	0
Hackney	0	0	0	£0.00	0	£0.00	0	0
Hammersmith & Fulham	3	0	0	£0.00	0	£0.00	3	0
Haringey	0	0	0	£0.00	0	£0.00	0	0
Harrow	0	0	0	£0.00	0	£0.00	0	0
Havering	0	0	0	£0.00	0	£0.00	. 0	0
Hillingdon	0	1	0	£0.00	0	£0.00	0	1
Hounslow	0	0	0	£0.00	0	£0.00	0	0
Islington	0	0	0	£0.00	0	£0.00	0	0
Kensington and Chelsea	0	0	0	£0.00	0	£0.00	0	0
Kingston Upon Thames	0	0	0	£0.00	0	£0.00	0	0
Lambeth	0	0	0	£0.00	0	£0.00	0	0
Lewisham	0	0	0	£0.00	0	£0.00	0	0
Merton	0	0	0	£0.00	0	£0.00	0	0
Newham	1	0	0	£0.00	0	£0.00	1	0
Redbridge	0	0	0	£0.00	0	£0.00	0	0
Richmond Upon Thames	0	0	0	£0.00	0	£0.00	0	0
Southwark	0	0	0	£0.00	0	£0.00	0	0
Sutton	0	0	0	£0.00	0	£0.00	0	0
Tower Hamlets	2	0	0	£0.00	0	£0.00	2	0
Transport for London	2	1	0	£0.00	1	£75.63	2	0
Waltham Forest	1	0	0	£0.00	0	£0.00	1	0
Wandsworth	0	0	0	£0.00	0	£0.00	0	0
Westminster	0	0	0	£0.00	0	£0.00	0	C
Totals for London:	14	5	3	£182.75	4	£226.27	11	1

Bus lane	appeals -	review	decisions
----------	-----------	--------	-----------

	Applications from appellant	Applications by local authority	Accepted from appellant	Accepted from local authority	Rejected from appellant	Rejected from local authority	Review allowed from appellant	Review allowed from local authority	Review refused from appellant	Review refused from local authority
Barking and Dagenham	0	0	0	0	0	0	0	0	0	0
Barnet	12	1	7	0	6	1	0	0	4	0
Bexley	0	0	0	0	0	0	0	0	0	0
Brent	3	1	1	1	2	0	0	0	0	1
Bromley	5	0	3	0	3	0	2	0	0	0
Camden	5	0	3	0	2	0	0	0	2	0
City of London	0	0	0	0	0	0	0	0	0	0
Croydon	0	0	0	0	0	0	0	0	0	0
Ealing	9	1	3	0	6	1	1	0	0	0
Enfield	0	0	0	0	0	0	0	0	0	0
Greenwich	0	0	0	0	0	0	0	0	0	0
Hackney	1	0	0	0	1	0	0	0	0	0
Hammersmith & Fulham	2	1	0	1	2	0	0	0	0	1
Haringey	6	0	3	0	4	0	0	0	3	0
Harrow	3	1	2	1	1	0	0	0	2	1
Havering	0	0	0	0	0	0	0	0	0	0
Hillingdon	1	0	0	0	1	0	0	0	0	0
Hounslow	0	0	0	0	0	0	0	0	0	0
Islington	5	0	0	0	5	0	0	0	0	0
Kensington and Chelsea	0	0	0	0	0	0	0	0	0	0
Kingston Upon Thames	0	0	0	0	0	0	0	0	0	0
ambeth	8	0	1	0	7	0	0	0	0	0
-ewisham	0	1	0	1	0	0	0	1	0	0
Merton	0	0	0	0	0	0	0	0	0	0
Newham	4	0	1	0	3	0	1	0	0	0
Redbridge	0	0	0	0	0	0	0	0	0	0
Richmond Upon Thames	3	2	2	2	1	0	1	0	0	2
Southwark	0	0	0	0	0	0	0	0	0	0
Sutton	0	0	0	0	0	0	0	0	0	0
ower Hamlets	1	0	1	0	1	0	0	0	1	0
ransport for London	38	0	15	0	24	0	8	0	7	0
Valtham Forest	0	0	0	0	0	0	0	0	0	0
Vandsworth	1	2	0	2	1	0	0	1	0	1
Vestminster	0	0	0	0	0	0	0	0	0	0
otals for London:	107	10	42	8	70	2	13		19	6

#### Moving traffic appeals

	Appeals received	Statutory declarations received	Total completed	Appeals allowed	Of which not contested	Appeals refused	Of which withdrawn	% allowed (inc dnc)	% not contested
Camden	742	74	1,009	558	335	451	9	55%	33%
City of London	29	0	20	16	4	4	0	80%	20%
Croydon	103	33	162	19	3	143	3	12%	2%
Ealing	455	0	440	321	169	119	9	73%	38%
Hackney	1	0	1	1	1	0	0	100%	100%
Hammersmith & Fulham	44	1	55	8	2	47	1	15%	4%
Haringey	212	0	190	116	72	74	5	61%	38%
Harrow	39	0	35	18	7	17	1	51%	20%
Hillingdon	16	0	7	7	7	0	0	100%	100%
Islington	373	5	375	228	72	147	4	61%	19%
Lambeth	236	0	192	145	63	47	4	76%	33%
Newham	136	24	209	74	31	135	2	35%	15%
Southwark	195	0	127	117	52	10	2	92%	41%
Tower Hamlets	24	0	10	4	1	6	0	40%	10%
Transport for London	662	106	718	305	118	413	8	42%	16%
Waltham Forest	25	1	10	9	2	1	0	90%	20%
Wandsworth	37	0	41	23	10	18	0	56%	24%
Westminster	192	3	179	174	78	5	1	97%	44%
Totals:	3,521	247	3,780	2,143	1,027	1,637	49	57%	27%

#### Moving traffic appeals – cost decisions

	Costs applications from appellant	Costs applications from local authority	Allowed for appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
Barking & Dagenham	0	0	0	£-	0	£0.00	0	0
Barnet	0	0	0	£-	0	£0.00	0	0
Bexley	0	0	0	£-	0	£0.00	0	0
Brent	0	0	0	£-	0	£0.00	0	0
Bromley	0	0	0	£-	0	£0.00	0	0
Camden	1	0	0	£-	0	£0.00	1	0
City of London	0	0	0	£-	0	£0.00	0	0
Croydon	0	0	0	£-	0	£0.00	0	0
Ealing	2	0	1	£341.00	0	£0.00	1	0
Enfield	0	0	0	£-	0	£0.00	0	0
Greenwich	0	0	0	£-	0	£0.00	0	0
Hackney	0	0	0	£-	0	£0.00	0	0
Hammersmith & Fulham	0	0	0	£-	0	£0.00	0	0
Haringey	0	1	0	£-	1	£37.88	0	0
Harrow	0	0	0	£-	0	£0.00	0	0
Havering	0	0	0	£-	0	£0.00	0	0
Hillingdon	0	0	0	£-	0	£0.00	0	0
Hounslow	0	0	0	£-	0	£0.00	0	0
Islington	0	0	0	£-	0	£0.00	0	0
Kensington & Chelsea	0	0	0	£-	0	£0.00	0	0
Kingston Upon Thames	0	0	0	£-	0	£0.00	0	0
Lambeth	0	0	0	£-	0	£0.00	0	0
Lewisham	0	0	0	£-	0	£0.00	0	0
Merton	0	0	0	£-	0	£0.00	0	0
Newham	1	0	0	£-	0	£0.00	1	0
Redbridge	0	0	0	£-	0	£0.00	0	0
Richmond Upon Thames	0	0	0	£-	0	£0.00	0	0
Southwark	1	0	0	£-	0	£0.00	1	0
Sutton	0	0	0	£-	0	£0.00	0	0
Tower Hamlets	0	0	0	£-	0	£0.00	0	0
Transport for London	0	0	0	£-	0	£0.00	0	0
Waltham Forest	0	0	0	£-	0	£0.00	0	0
Vandsworth	0	0	0	f-	0	£0.00	0	0
Vestminster	2	0	2	£98.93	0	£0.00	0	0
otals:	7	1	3	£439.93	1	£37.88	4	0

	Applications from appellant	Applications by local authority	Accepted from appellant	Accepted from local authority	Rejected from appellant	Rejected from local authority	Review allowed from appellant	Review allowed from local authority	Review refused from appellant	Review refused from local authority
Barking and Dagenham	0	0	0	0	0	0	0	0	0	0
Barnet	0	0	0	0	0	0	0	0	0	0
Bexley	0	0	0	0	0	0	0	0	0	0
Brent	0	0	0	0	0	0	0	0	0	0
Bromley	0	0	0	0	0	0	0	0	0	0
Camden	29	2	8	2	20	0	2	1	5	1
City of London	0	0	0	0	0	0	0	0	0	0
Croydon	6	0	1	0	5	0	0	0	1	0
Ealing	3	0	0	0	2	0	0	0	0	0
Enfield	0	0	0	0	0	0	0	0	0	0
Greenwich	0	0	0	0	0	0	0	0	0	0
Hackney	0	0	0	0	0	0	0	0	0	0
Hammersmith & Fulham	1	0	0	0	1	0	0	0	0	0
Haringey	1	1	1	0	0	1	0	0	0	0
Harrow	2	0	0	0	2	0	0	0	0	0
Havering	0	0	0	0	0	0	0	0	0	0
Hillingdon	0	0	0	0	0	0	0	0	0	0
Hounslow	0	0	0	0	0	0	0	0	0	0
Islington	6	1	1	1	5	0	0	1	1	0
Kensington and Chelsea	0	0	0	0	0	0	0	0	0	0
Kingston Upon Thames	0	0	0	0	0	0	0	0	0	0
Lambeth	5	0	2	0	3	0	0	0	1	0
Lewisham	0	0	0	0	0	0	0	0	0	0
Merton	0	0	0	0	0	0	0	0	0	0
Newham	9	0	5	0	5	0	1	0	3	0
Redbridge	0	0	0	0	0	0	0	0	0	0
Richmond Upon Thames	0	0	0	0	0	0	0	0	0	0
Southwark	1	0	0	0	1	0	0	0	0	0
Sutton	0	0	0	0	0	0	0	0	0	0
Tower Hamlets	0	0	0	0	0	0	0	0	0	0
Transport for London	17	0	8	0	9	0	6	0	2	0
Waltham Forest	0	0	0	0	0	0	0	0	0	C
Wandsworth	3	0	0	0	3	0	0	0	0	C
Westminster	0	0	0	0	0	0	0	0	0	C
Totals:	83	4	26	3	56	1	9	2	13	1

#### London lorry control statistics

#### Lorry control appeals

	received	Statutory declarations received	Total completed	Appeals allowed		Appeals refused	Of which withdrawn	% allowed (inc dnc)	% not contested
London Councils TEP	70	0	68	49	16	19	2	72%	24%

#### Lorry control appeals – review decisions

	Appellant's application accepted	Appeal allowed on review	Appeal refused on review	Local authority appeal accepted	Appeal allowed on review	Appeal refused on review
London Councils TEP	0	0	0	0	0	0

#### Lorry control appeals – cost decisions

Application from appellant allowed	Amount awarded	Application from appellant refused	Application from local authority allowed	Amountl awarded	Application from local authority refused
London Councils TEP 0	0	0	0	0	0

### congestion charging appeals statistics 2006/07

#### Congestion charging appeals statistics 2005/06

	Appeals received	Statutory declarations received	Total completed	Appeals allowed	Of which not contested	Appeals refused	Of which withdrawn	% allowed (inc dnc)	% not contested
TfL	8,054	1,493	11,085	4,360	2,984	6,725	179	40%	27%

#### Congestion charging appeals costs 2005/06

	Costs applications from appellant	Costs applications from local authority	Allowed for appellant	Amount awarded to appellant	Allowed for local authority	Amount awarded to local authority	Costs refused for appellant	Costs refused for local authority
TfL	12	0	2	£541.00	0	£-	10	0

#### Congestion charging appeals reviews 2005/06

Application from appellant	from local authority	from	from local		Rejected from local authority	allowed	Review allowed from local authority	Review refused from appellant	Review refused from local authority
TfL 147	24	146	24	1	0	35	5	81	16

# London Councils' TEC revenue accounts for the year ending 31 March 2007

		Operations (mobility)	and	Operation ic and parking Parking, Traff	a) ic	Policy and administration
				estion Chargin Appeals Service		
	2006/07	2005/06	2006/07	2005/06	2006/07	2005/06
	£000	£000	£000	£000	£000	£000
Expenditure						
Employee costs	390	353	1,216	1,073	969	828
Premises	82	77	631	654	204	181
Transport	(1)	1	31	28	5	5
Supplies and services	34	289	324	151	155	
Agency payments and other costs	0	0	3,689	8,487	1,538	265
Vivista services	11	14	3,946	3,929	0	1,356
Adjudication	0	0	1,772	1,921	0	0
Transfer payments			2///2	1,921	U	0
- Payments to transport operators	227,946	210,919	0	0	0	
- Survey/reissue costs	37	225	0	0	0	0
Central/technical support	0	0	0	0	0	0
Total Expenditure	228,499	211,878	11,609	16,243	200 <b>3,071</b>	411 3,046
Income						
Borough levies and charges	219,795	204,203	6,330	6,079	620	
Transfer (to) / from reserves	91	306	0,550	300	620	265
Court fees and other income	0	0	1	2	251	69
Interest	0	0	0		(45.4)	0
Contribution from TfL	8,924	7,157	1,648	(67)	(154)	(118)
Other income	5	12	4,291	1,280	269	173
Total income	228,815	211,678		9,303	1,374	1,394
		-11,070	12,270	16,897	2,360	1,783
ransfer (to) / from reserves	(316)	200	(661)	(654)	711	1,263

## ALG TEC consolidated balance sheet as at 31 March 2006

	2006/07	2006/07	2005/06	2005/06
	£000	£000	£000	£000
Current assets				2000
Debtors	6,134		6,947	
Prepayments	212		217	
Cash in hand and at bank	30		1,462	
Total assets		6,376	2,102	8,626
Current liabilities				
Creditors	(2,603)		(2,372)	
Cahs Overdrawn	(3,237)		(5,744)	
Total Current liabilities		(5,840)	(5,7.1.)	(8,116)
Total assets less current liabilities				
(excluding Pensions Liability)		536		510
Pension Liability		(1,723)		(1,929)
Total assets less current liabilities		( ,)		(1,323)
(including Pensions Liability)		(1,187)		(1,419)
Reserves				
General reserves		340		223
Specific reserves		196		287
Pension		(1,723)		
Total reserves		(1,187)		(1,929)
		(-,,		(1,419)

design: marshall@pinsentdesign.com pictures: PA Photos/Third Ave/Top Foto publication date: January 2008

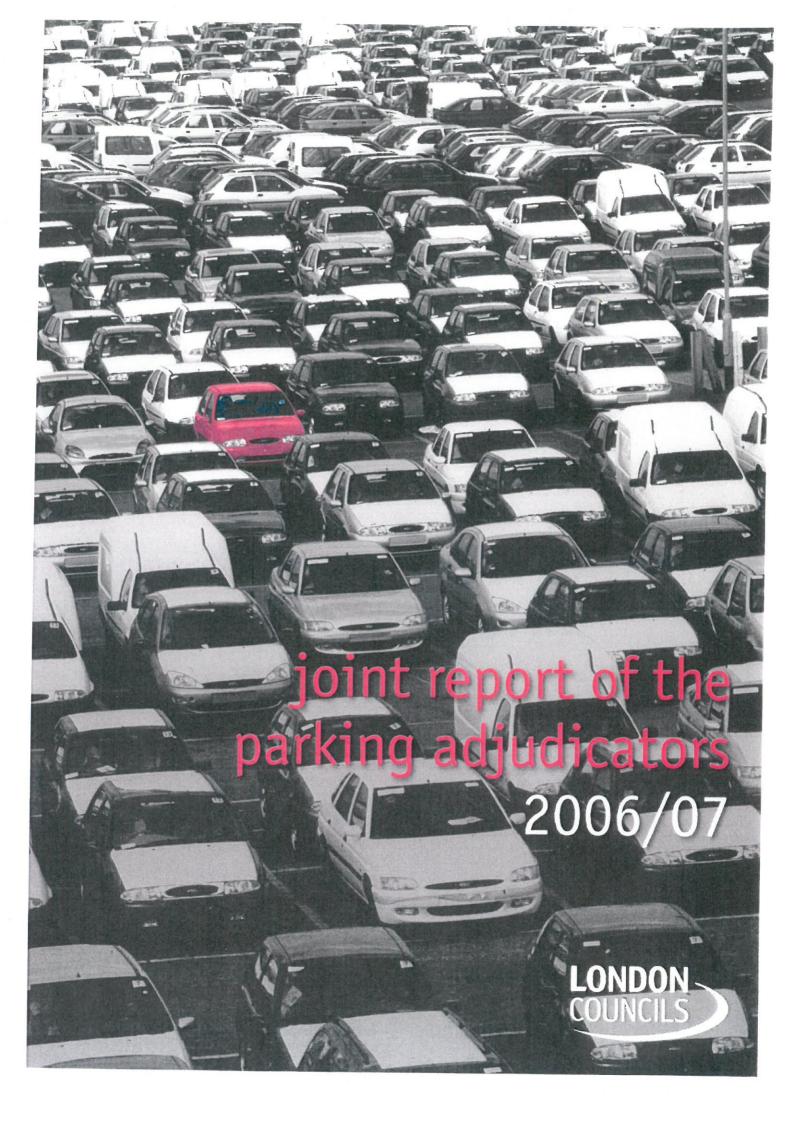
ISBN: 978-1-85494-150-3

London Councils supports environmentallyfriendly products. This report is printed on NAPM accredited paper that uses 75% recycled fibre and is manufactured in the UK at mills with ISO 14001 accreditation.



59% Southwark Street, London SE1 OAL Tel 020 7934 9999 Fax 020 7934 9991 www.londoncouncils.gov.uk

**LONDON** COUNCILS



# chief adjudicator's foreword

I am pleased to present to the committee this joint report of the parking adjudicators for the year 2006/07.

This year we received the second largest number of appeals ever, 57,040, exceeded only by 2004-2005. But we also disposed of a record 62,791 appeals, thus reducing our backlog of postal cases from over 5,000 at the beginning of the year to fewer than 1,200 by the end. As a result, the waiting time for a postal case first coming before an adjudicator is down from 12 weeks after its scheduled date at the beginning of the year to, at the time of writing, four weeks.

Sadly for us, our colleague Richard Crabb retired as an adjudicator in April. Richard was appointed in 1994 in the early days of the tribunal, as one of the second tranche of adjudicators to be appointed. When the first chief parking adjudicator, Caroline Sheppard, left to take up her position as chief parking adjudicator for England and Wales in 1999, Richard served as acting chief parking adjudicator until I took up post in April 2000. Richard also featured prominently in the documentary programme *Clampers*, which gave the public an insight into the workings of the adjudicators as well as parking enforcement generally. I would thank Richard for his thirteen years valuable service and, on behalf of us all, wish him a long and happy retirement.

It is interesting to reflect that in 1994-1995 when Richard joined the tribunal, there were 16 adjudicators and 4,869 parking appeals. Since then the adjudicators' jurisdiction has widened to include bus lane, moving traffic and the London lorry ban appeals. There are now 50 adjudicators and the number of appeals has grown over tenfold. In terms of cases received, we are the fifth busiest tribunal in the country.

I would wish to record my thanks to the adjudicators for the support they have given to the tribunal this year.

Finally, may I express the adjudicators' thanks to Charlotte Axelson and her staff for their ever enthusiastic support to the adjudicators during the year.

Martin Wood

Chief Parking Adjudicator December 2007



Parking adjudicators are judicial office holders appointed under section 73(3) of the Road Traffic Act 1991. They decide appeals from members of the public against penalties imposed by London local authorities, including Transport for London, for contraventions of traffic controls relating to:

- parking
- bus lanes
- · moving traffic
- the London lorry ban.

#### Workload

We give here statistics relating to our overall workload during the year. Further details of these figures by local authority can be found in the statistics produced by London Councils.

Note. "Received" figures may not necessarily tally with figures for actions taken because of matters being carried forward from year to year.

#### Appeals received

The following table shows the numbers of appeals received.

The fall in the number of bus lane appeals may well reflect greater compliance as motorists have become more aware of stricter enforcement.

The increase in moving traffic appeals is no doubt a reflection of more widespread enforcement as more local authorities have implemented moving traffic enforcement.

The overall appeal rate was 0.94 per cent of all penalty charge notices issued. There are considerable differences between the different types of appeal, for which the appeal rates are as follows:

- parking 0.99 per cent
- bus lane 0.43 per cent
- moving traffic 0.84 per cent
- · Lorry ban 2.9per cent.

The parking rate has remained consistently stable at around 1 per cent. The rate for bus lanes has always been lower, we believe because enforcement is invariably by camera. The pictorial evidence this produces leaves much less room for argument about the facts compared with many parking cases, where no pictorial evidence is available. However, it is now becoming more common for there to be pictorial evidence in parking cases, either because enforcement has been by CCTV or from photographs taken by the parking attendant. It will be interesting to see whether this trend results in a fall in the appeal rate. Another difference that may affect the appeal rate is that in bus lane cases there is only the one contravention - being in a bus lane when prohibited - compared with a large number of parking contraventions.

Appeals recieved			Increase (	Decrease)
by type	2006 - 2007	2005 - 2006	Number	%
Parking	51,484	48,227	3,257	6.8
Bus Lane	1,965	2,774	(809)	(29.2)
Moving Traffic	3,521	1,610	1,911	118.7
Lorry Ban	70	103	(33)	(32)
Total	57,040	52,714	4,326	8.2

Given that moving traffic is also almost invariably enforced by camera, it is interesting that the appeal rate is closer to that for parking rather than bus lanes, as perhaps might have been expected. Moving traffic enforcement is relatively recent, so there may be an element of a bedding down period during which motorists are more inclined to appeal. In addition, whether or not a contravention has been committed is with some moving traffic contraventions perhaps rather more complex than with bus lanes. As can be seen from the table below, although the appeal rate was higher, so was the rate of appeals allowed. The higher appeal rate was therefore not the result of motorists making more unmeritorious appeals.

#### Statutory declarations received

The following table shows the number of statutory declarations received and the action taken.

Comparative figures for 2005/06 are not shown as they are not readily available.

**Statutory Declarations** 

2006 - 2007	Scheduled as Appeal	Other Direction
2,574	1,023	1,255
321	123	179
247	119	113
0	0	0
3,142	1,265	1,547
	2,574 321 247 0	2,574 1,023 321 123 247 119 0 0

#### Appeals disposed of

The following table shows the numbers of appeals disposed of.

Appeals Disposed of	2006 - 2007	2005 - 2006	Increase (Decrease)	
by Type			Number	%
Parking	56,350	50,614	5,736	11.3
Bus Lane	2,593	3,174	(581)	(18.3)
Moving Traffic	3,780	861	2,919	339
Lorry Ban	68	85	(17)	(20)
Total	62,791	54,734	8,057	14.7

The appeals disposed of exceeded appeals received by 5,751. As a result our backlog of postal cases at the end of the year was under 1,200.

#### Appeals not contested by the local authority

The following table shows the numbers of appeals not contested by the local authority.

Appeals	2006 - 2007		2005 - 2006	
not contested By Type	Number	As % of Appeals disposed of	Number	As % of Appeals disposed of
Parking	18,546	32.9	12,075	23.9
Bus Lane	402	15.5	520	16.4
Moving Traffic	1,027	27.2	310	36.0
Lorry Ban	16	23.5	29	34.1
Total	19,991	31.8	12,934	23.6

The number of appeals not contested by local authorities remains a concern. However, the higher figure for parking includes a large number of cases not contested because the penalty charge notice in question was not compliant, following the decision in *R* (Barnet) v The Parking Adjudicator on which we reported last year. Without these the parking figure would have been much lower, and the figures for all the other types of appeal were, in percentage terms, lower than for the previous year. Perhaps, therefore, there is some encouragement to be taken from the figures.

#### Appeals allowed

The following table shows the numbers of appeals allowed, including appeals not contested by the local authority.

Appeals allowed	2006 - 2007		2005 - 2006	
By Type	Number	%	Number	%
Parking	38,579	68	28,121	56
Bus Lane	1,182	46	1,285	40
Moving Traffic	2,143	57	479	56
Lorry Ban	49	72	74	87
Total	41,953	67	30,627	55

The higher percentage of parking appeals is no doubt again to a large extent accounted for by the effect of *R* (Barnet) v The Parking Adjudicator. In addition to the many cases expressly not contested by local authorities as a result, there were also many allowed because the local authority had effectively conceded the case by default by not submitting any evidence, and had done so apparently because the penalty charge notice fell foul of the Barnet decision.

### Applications for review

The following table shows details of review applications received.

### In this table:

- "accepted" means that the adjudicator proceeded to conduct a review
- "allowed" means that the adjudicator reversed the original decision to allow or refuse the appeal.

It should be noted that the figures for 2005/06 do not include any applications for moving traffic or lorry ban appeals, for which statistics are not readily available.



Photograph by Lol Mason

Received		Accepted		Allowed	
2006- 2007	2005- 2006	2006- 2007	2005- 2006	2006- 2007	2005- 2006
,352	1,891	449	491	172	448
92	74	75	42	28	10
,444	1,965	524	533	200	458
	<b>2006- 2007</b> ,352 92	2006- 2005- 2007 2006 ,352 1,891 92 74	2006-     2005-     2006-       2007     2006     2007       ,352     1,891     449       92     74     75	2006-     2005-     2006-     2005-       2007     2006     2007     2006       ,352     1,891     449     491       92     74     75     42	2006-     2005-     2006-     2005-     2006-       2007     2006     2007     2006     2007       ,352     1,891     449     491     172       92     74     75     42     28

### Applications for costs

The following table shows details of costs applications received.

Applications	Received		Awarded		Total amount £	
	2006- 2007	2005- 2006	2006- 2007	2005- 2006	2006- 2007	2005- 2006
Appellant	199	226	82	80	5,871.47	5,929.16
Authority	32	41	30	37	1,927.27	2,696.21
Total	1,444	1,965	524	533	7,798.74	8,625.37

The small number of applications and awards, and the low total figure in monetary terms, reflects the limits of the power under regulation 12 of the Road Traffic (Parking Adjudicators) (London) Regulations 1993 to award costs. The regulation provides, in summary, that the adjudicator may award costs only against a party that has acted frivolously, vexatiously or wholly unreasonably.

It should be noted that ancillary work - which includes reviews, costs, decisions on extending time for late appeals and making directions on statutory declarations referred by local authorities - takes up a good deal of adjudicator time, broadly equivalent to 1,000 appeal decisions a month.

#### Council on tribunals annual conference 2006

The theme of the conference was: "Right first time" - stimulating improvements in decision making through feedback. This is a central plank of the government's continuing reform of the tribunal system. It echoes our recommendation in our 2003/04 annual report "that all local authorities should have in place arrangements for addressing feedback received from the adjudicators and taking such action on it as may be appropriate".

Lord Falconer, the Lord Chancellor and Secretary of State for Constitutional Affairs, referred to the importance of the tribunal reform programme and identified the characteristics of tribunals as:

- easily accessible
- simple
- speedy
- inexpensive
- proportionate
- justice exercised by those with expert knowledge.

We believe that we measure up well against these standards.

Lord Justice Carnwarth, the Senior President of Tribunals designate, addressed the conference theme, saying that a main aim is to reduce tribunal caseloads by improving first time decision making. He said that Martin Partington of the Law Commission had prepared a paper on feedback which provided some helpful pointers:

- the need for mechanisms for feedback
- that cases are often prepared by people who have never seen the tribunal in action
- decisions are often delivered back without comment
- the task of a tribunal is not just to make individual decisions, but to draw attention to ways in which decision making can be improved.

We do provide feedback to local authorities in a variety of ways: in decisions, by the chief adjudicator drawing attention to issues, at user groups and in these annual reports. We are encouraged that local authorities increasingly respond to such feedback, and do so in a constructive manner. National Grid v Camden (Cases Digest, page 35) is an example of this. Feedback should be seen as a positive force for improvement, to the benefit of all, not least to local authorities through improved public perception and the reduction in appeals that should follow from higher standards.

The conference heard an interesting presentation from His Honour Judge Michael Harris, President of the Appeals Service, which deals with social security appeals. His annual report is required by law to report on the standards achieved in departmental decision making. He reported that 40 per cent of benefit appeals were allowed, and asked why? He said that in 50 per cent -70 per cent of cases, this was due to additional evidence being produced. Other major reasons were:

- the tribunal accepted evidence that the department had not
- the department had attached the incorrect weight to appellant evidence
- lack of consideration brought to the issue at appeal.

Had these reports had any effect? Judge Harris said that:

- they are a constant reminder there is room for improvement
- their conclusions are readily accepted by ministers, senior officials
- but lack of resources prevents action at the coal face

 there has nevertheless been an overall improvement in departmental decision making in the last five years.

The issues addressed by Judge Harris will perhaps strike a chord with many readers of this report.

The conference also heard from Mr Justice Hodge, President of the Asylum and Immigration Tribunal, who emphasised that the tribunal decision is the starting point for feedback; and from Tony Redmond, Local Government Ombudsman, on the role of the ombudsmen in the development of good administration.

### Tribunals service

We should note that the tribunals service was launched in April 2006 as an executive agency of the Ministry of Justice. Its function is to provide a unified administration for the tribunals system. Its role in providing administrative support to tribunals is essentially the same as the committee's role in providing such support to the parking adjudicators.

It currently provides common administrative support to 27 central government tribunals and organisations. There are plans for more existing tribunals to join the service from other government departs in the future. In addition, all new, non-devolved, central government tribunals will be established as part of the tribunals service. Local government tribunals, including ourselves, have, for now, been excluded from the remit of the new service because of the need for separate and fuller consideration of their different funding and sponsorship arrangements.

### Tribunals, Courts and Enforcement Act 2007

As its title suggests, this Act covers a range of matters, including the following that are of interest to us.

### A unified tribunal

The Act contains provisions that complement the creation of the tribunals service, by providing for the bringing together of the tribunals themselves into a unified tribunal structure. It also provides for tribunal procedure rules for the new tribunals

structure to be made by a tribunal procedure committee, whose members will be drawn from the judiciary and tribunal practitioners. We will refer to this later in this report.

### Administrative Justice and Tribunals Council

The Act replaces the Council on Tribunals with the Administrative Justice and Tribunals Council, with a wider remit. As well as wide powers to keep under review and report on tribunals individually and in general, the AJTC is also required to keep under review the administrative justice system as a whole. "The administrative justice system" is defined as:

the overall system by which decisions of an administrative or executive nature are made in relation to particular persons, including-

- (a) the procedures for making such decisions,
- (b) the law under which such decisions are made, and
- (c) the systems for resolving disputes and airing grievances in relation to such decisions.

It would seem that this would empower the AJTC to look not just into the operation of the parking adjudicators as a tribunal, but also into the operation of the traffic enforcement system more generally.

The AJTC is also empowered to scrutinise and comment on legislation relating to tribunals.

### Judicial Review

The Act empowers the High Court, on quashing a decision of a court or tribunal, to substitute its own decision for the decision quashed. It may exercise this power only if:

- the decision is quashed on the ground that there has been an error of law, and
- without the error, there would have been only one decision which the court or tribunal could have reached.

Unless the High Court otherwise directs, such a substituted decision has effect as a decision of the relevant court or tribunal.

While this may seem to be a somewhat esoteric legal matter, it effects a fundamental change in the manner in which judicial review operates.

Previously, the High Court had power only to quash a decision and the matter would then go back to the relevant court or tribunal to decide it afresh. For the High Court to be able to make its own decision is therefore at one level a radical departure. At a more practical level, it merely short-circuits the previous need for a fresh decision by the original tribunal in circumstances where the decision it would make is inevitable. It will be interesting to see the extent to which the High Court uses this power.

### Implementation of civil enforcement under the Traffic Management Act 2004

We reported last year that the Department for Transport had started the process of making regulations to bring into force the new regime of civil traffic enforcement under Part 6 of The Traffic Management Act 2004, which makes provision for the introduction of a new, comprehensive, nationwide code for the civil enforcement of traffic contraventions, covering parking, bus lanes, moving traffic and the London lorry ban. The new regulations will replace the existing legislation contained in a mixture of public and local Acts.

We think it unfortunate that the department chose to implement the Act initially in relation to parking only, rather than civil enforcement as a whole. As we understood it, the Act was intended, and certainly presented the opportunity, to introduce a single coherent regime for civil enforcement. We are not clear why the department apparently regards parking as somehow intrinsically different from the other contraventions. In truth, all are minor traffic infractions. Although parking is a static infraction while the others are committed on the move, this does not mean that the practical operational differences this necessarily causes to enforcement cannot be accommodated within a single enforcement regime. The department has now moved on to implementation in relation to the remaining contraventions. We expressed the hope last year that implementation would not lead to a perpetuation of the current unsatisfactory, incoherent position. As implementation has proceeded so far there is regrettably a risk that

our hope will not be realised, or at least that the opportunity implementation presents will not be fully realised. There is still the opportunity through the second stage in the process to bring all contraventions together into a single regime. We hope the department will take it.

As matters stand, there is even a danger that the regime will be more fragmented rather than less, and in a way that is of direct concern to us. At present a single set of regulations, The Road Traffic (Parking Adjudicators) (London)
Regulations1993, apply to proceedings before us irrespective of the type of contravention. It seems that the result of the department's present approach may be that there will be separate procedural regulations for parking and for the other contraventions. This will only increase complication to no-one's benefit. We hope this will be avoided.

Indeed, the preparation of the new regulations governing our procedures has been a difficult exercise altogether. The current procedures are contained mainly in the 1993 regulations and to some extent in the primary legislation. We have operated these procedures for over 13 years. One might therefore have thought that the sensible way for the department to proceed in preparing new procedural regulations would be, before putting pen to paper, to consult us about the practical operation of the procedures, whether we had any suggestions for change and to seek our views on any ideas of their own for change. The exercise therefore got off on the wrong foot by the department presenting to us draft regulations that contained substantial changes to the existing regulations without prior consultation and without any explanation of the rationale for the changes. The reason for many of the changes was difficult to divine. Some appeared to be mere drafting taste; others were matters of substance effecting unnecessary changes to our present procedures without any benefit. Some of the changes would have caused unnecessary operational disruption, with the attendant costs.

The proposed regulations therefore caused us a great deal of concern. We are sorry to say that when we raised our concerns with the department

we were not met with a receptive response. As a result it took a great deal of effort and many months to obtain the changes that we regarded as the minimum to put them into an acceptable, if still less than ideal, form. Regrettably, though, the regulations preserve the current statutory declaration procedure substantially unaltered. This procedure is abused by a minority of motorists who make manifestly false declarations to hinder the recovery of penalties by local authorities. In our view the procedure needed to be reformed to address this.

In our view government needs to learn the lessons from this unsatisfactory episode. Parking control policy is, of course, a matter for government. Our concerns, however, related to our procedures and practices. These are not matters of parking control policy; they relate to the administration of justice. In that connection we note that under the 2004 Act, the regulations relating to appeals are made by the Lord Chancellor. We are therefore not clear why in relation to these regulations the Department for Transport was taking the lead. Indeed, there was at times a lack of clarity about whether the initiative for the content of the regulations had come from the Department for Transport or the Department for Constitutional Affairs (as then was; now the Ministry of Justice), and confusion about this between the two Departments. It seemed that Departmental sensitivities and protocols may have played a part in this, if this is so, it is not acceptable for them to get in the way of what should be the common goal of all parties: well-drafted regulations that serve the proper administration of justice.

It is also most surprising that government was apparently so unwilling to consult and listen to those with the practical experience of the tribunal's procedures and practices, the adjudicators. By the creation of the Tribunal Procedure Committee to which we refer above, government has accepted what is, we would suggest, the good sense of the principle that procedural rules are best determined by those with practical experience. We would urge that in future it apply this principle to tribunals that are for the present outside the unified tribunals structure.

### Managed services contract re-let

The process for re-letting the outsourcing contract for the provision of much of the administrative support provided for the parking adjudicators by the committee, most importantly the development and management of our computerised adjudication system, continued through the year. We were represented on the project board by the chief parking adjudicator. The process has now been completed and the new contract awarded to the incumbent operator, Sungard Vivista Limited.

The computerised adjudication system is undoubtedly an enormous asset to the tribunal and without question contributes greatly to the efficiency of its operation. It has many advantages over working with paper and is much appreciated by the adjudicators. But nothing is perfect and one area of concern there has been in the past has been the difficulty in obtaining changes to the system and the time they have taken. This has resulted in the need for manual "work-arounds" in the meantime, which defeats the object of having a computerised system. We hope that under the new contract there will be an improvement in this respect.

### Communications

We have continued the development of our website, which underwent a comprehensive overhaul the previous year.

We issued four of our regular newsletters to local authorities. These include appeal statistics and items of interest, ranging from staff and organisational changes to recent key decisions.

In November 2006 we held a well attended seminar for local authority staff. The seminar considered topical issues including electronic data interchange of evidence, system enhancements, and the overhaul of our website.

### Training

We held one adjudicators' training meeting covering current issues of law and practice.

### **Judicial Reviews**

Four appellants commenced judicial review proceedings to challenge the adjudicator's decision in their appeal. In each case the High Court refused to grant permission for the application to proceed.

One appellant commenced proceedings in the County Court to challenge the decision of the adjudicator. The County Court has no jurisdiction to entertain such a claim. The proceedings were ultimately concluded by the County Court making an order dismissing the proceedings, with the consent of the parties.

One claim for judicial review commenced in 2005 remains outstanding. Permission to proceed has been refused by the High Court. The Court of Appeal has refused permission to appeal against that decision. The claimant has petitioned the House of Lords for leave to appeal. The decision is awaited.

# R (Transport for London) v Parking Adjudicator (Defendant) and Ademolake (Interested Party) [2007] EWHC 1172 Admin.

This judicial review, brought by Transport for London, related to so-called 'drive-aways', where a motorist drives away from the scene before the parking attendant is able to serve a penalty charge notice under section 66(1) of the Road Traffic Act 1991 by fixing it to the vehicle or giving it to the person in charge of the vehicle. Section 5 of the London Local Authorities Act 2000 provides that a local authority may serve a penalty charge notice by post on the owner of the vehicle where "a parking attendant attempts to issue a penalty charge notice in accordance with section 66(1) of the Act of 1991 but is prevented from doing so by any person". The parking adjudicators had interpreted "attempt to issue" as requiring the parking attendant to be in the act of serving the penalty charge notice and "prevention" as requiring violence or the threat of violence, not merely driving away. The High Court endorsed the adjudicators' view. Mr

Justice Calvert-Smith held as follows.

- "issue" means the act of fixing the penalty charge notice to the vehicle or giving it to the person in charge
- the "attempt" to issue only commences when the parking attendant starts to approach the driver or the vehicle with the prepared penalty charge notice. Steps preparatory to that do not constitute an "attempt to issue"
- it is a well-established understanding that driving away without inflicting violence or the threat of violence on the parking attendant does not amount to "prevention". The local authorities' own code of practice, adopted at the meeting of the ALG Transport and Environment Committee on 15 June 2006, said as much. The court would not reverse such a well-established understanding.

### **Visits**

We were pleased to receive a visit from Gerard O'Neill, a Justice of the Peace from Alberta, Canada. Mr O'Neill sits in The Provincial Court of Alberta, where his jurisdiction includes traffic offences.

### Issues

### Bill of Rights 1689

We referred last year to publicity in the press about claims that the civil enforcement of traffic contraventions was in breach of the Bill of Rights and was consequently unlawful. The issue came before the High Court in R (De Crittenden) v National Parking Adjudication Service [2006] EWHC 2170 (Admin), an application for judicial review of a parking adjudicator in our sister tribunal, which deals with appeals in England and Wales outside London. Mr Justice Collins dismissed the argument that the adjudicators are not independent. He said that they are an independent tribunal which Parliament has brought into being under the Road Traffic Act 1991 to act instead of a court to deal with parking enforcement appeals. There is, he said, nothing strange in our system of law in a tribunal being established to deal with matters which otherwise would have to be dealt with through the courts. The adjudicators are subject to the control of the courts through judicial review. If there have been errors of law by the adjudicator in a given case the court is there to deal with them.

He went on to say that the argument that the Bill of Rights applied was completely baseless. A parking penalty is not a fine or forfeiture within the Bill of Rights. The Bill of Rights reference to fines or forfeitures before conviction or judgment means that what cannot prevail is a fine or forfeiture in respect of which there is no right of appeal, whether ultimately to a court or through a system equivalent to a court. That system has been set up. Thus, even if these were fines or forfeitures, the Bill of Rights could not be said to have been breached.

As to the suggestion that Parliament could not amend the Bill of Rights, he said that Parliament is supreme and can amend any provision of our law at any time. If it passes an Act which is clearly contrary to a previous Act, the later Act will prevail. However, this principle was not needed as there was no breach of the Bill of Rights.

This decision confirmed the view that the adjudicators had taken.

The issue also arose in *Henney v Camden* (page 13). In that case, the appellant argued that the clamping regime was unlawful for a number of reasons, including that it was contrary to the Bill of Rights because the penalties had to be paid before the right to appeal could be exercised. The adjudicator rejected the argument, holding that, in enacting the clamping regime in the 1991 Act, Parliament must have intended to repeal the Bill of Rights so far as necessary to give effect to that regime.

This decision was made before the decision in *De Crittenden*. However, the appellant applied for review of the decision. In rejecting the application the adjudicator referred to the decision in De Crittenden, which had by that time been made, in particular the Court's finding that the parking penalties were not fines or forfeitures within the Bill of Rights.

### Human Rights Act 1998

The application of the Act was considered in Henney v Camden and in De Florio v Kensington & Chelsea (page 15). In both cases, the appellant contended that the supplementary enforcement action, clamping or removal, was disproportionate and so in breach of Article 1 of the First Protocol to the European Convention on Human Rights. The adjudicator in each case found that the temporary loss of control caused by clamping or removal was a proportionate response to legitimate traffic management aims.

Both *Henney* and *De Florio* deal more generally with **the lawfulness of clamping and removal.** 

In Strauss v Kensington & Chelsea (page 15), the appellant contended that the law allowed him to pay the reduced penalty within the 14 days permitted and then still contest the penalty, ultimately by appealing to the adjudicator. In dismissing this claim, the adjudicator rejected his argument that otherwise there would be a breach of the requirement under Article 6 of the European Convention of Human Rights for there to be an effective right of access to the tribunal. The provision for the reduced penalty was an entirely proportionate measure in relation to the legitimate aim it sought to achieve: providing an incentive for motorists to pay penalties promptly.

### Review

Under regulation 11 of the Road Traffic (Parking Adjudicators) (London) Regulations 1993, an adjudicator may review an appeal decision, a costs decision or any interlocutory decision, but only on the limited grounds specified. The regulation provides that the application shall be made within 14 days after the date on which the decision was sent to the parties. However, the adjudicator has power under regulation 14 to extend that time. In Rubin v Barnet (page 16), the adjudicator considered the exercise of that power, saying that adjudicators would extend the time limit only in exceptional circumstances.

In Rowe v Hammersmith & Fulham (page 16), the adjudicator considered the nature of the power to review. He said it was not the purpose of the review procedure for a party to shop a case around the adjudicators in the hope of obtaining a favourable decision.

### Signs and lines

Many appeals continue to turn on whether the

signage of the restrictions is lawful. Rowe v Hammersmith & Fulham concerned the signage relating to unusual and complex restrictions, and highlighted the need for consistency between information on plates and on pay & display machines.

Carey v Transport for London (page 18) concerned the signs for a prohibited right turn and emphasised the different considerations that apply to signs which must be read by motorists on the move and signs for parking, which in general cater for motorists who have parked their vehicle and are able to seek out the signs.

### Exemptions

Many appeals depend on whether one or other of the exemptions applicable to the restrictions applied in the particular case. The most common exemption is probably that for loading and unloading. The cases digest includes five cases (pages 19 - 20) where other exemptions applied. What is disturbing is that in four of the cases -Stegers v Transport for London, GSL Ltd v Kensington & Chelsea, Cox v Hackney, Lee v Transport for London - the local authority appeared either to be unaware of the terms of the Traffic Management Orders they were enforcing or had applied them incorrectly, and consequently had rejected the appellant's representations. This suggests a continuing failure to train staff adequately, an issue to which we have drawn attention in previous reports.

### Pay-by-phone parking

Bawor v Wandsworth (page 21) is an early example of the relatively recently introduced facility allowing payment of parking charges by phone.

### Utilities: dispensation procedures

Last year we suggested that it ought to be possible for standard arrangements to be agreed between the major utilities and local authorities, rather along the lines of the Health Emergency Badge, to minimise the number of disputed cases relating to utilities' vehicles parked to carry out emergency works. We are therefore pleased to note that London Councils has introduced a standard form for utilities to use when making representations for the cancellation of a penalty

charge notice. We hope that this will enable more such cases to be settled at the stage of representations to the local authority and so reduce the number of appeals to us.

### Description of contravention in PCN

Adamou v Haringey (page 21) draws attention to the need to adequately identify on the penalty charge notice the location of the alleged contravention. Imprecision in this respect may lead to appeals being allowed for this reason.



This digest contains cases decided during the year on topics of interest.

# Clamping: lawfulness; Bill of Rights; Human Rights Act Henney v Camden (PATAS Case No. 2060037355)

The appellant's vehicle was clamped for being parked in a residents' parking space without displaying a resident's permit.

The appellant accepted that he was liable for the basic penalty. He challenged the lawfulness of the clamping.

The adjudicator said that parking attendants were empowered by section 69(1) of the Road Traffic Act 1991 ("the 1991 Act") to clamp vehicles. Section 69(4) provided for the vehicle to be released on payment of the penalty charge and the prescribed release charge. The person who obtained the release of the vehicle was then entitled to challenge liability for the penalty and release charges, ultimately by appealing to the parking adjudicator.

The appellant's vehicle was parked unlawfully and the immobilisation power applied. The appellant nevertheless put forward several grounds for contesting the lawfulness of the clamping.

### The clamping regime was incompatible with the Bill of Rights 1688.

The appellant referred to this passage in the Bill of Rights:

That all Grants and Promises of Fines and Forfeitures of particular persons before Conviction are illegall and void.

The Bill of Rights had been categorised by the courts as a constitutional statute. In Thoburn v Sunderland City council [2002] EWHC 195 (Admin), Laws LJ said that constitutional statutes may not be impliedly repealed, but only by express words or by words so specific that the inference of an actual determination to effect the repeal was irresistible.

In the 1991 Act, Parliament had provided for a very specific and detailed regime for the immobilisation of vehicles. In doing so it must have intended to repeal the Bill of Rights if and so far as necessary to give effect to that regime.

# The application of a clamp did not afford a fair hearing, as required by administrative law and Article 6 of the European Convention on Human Rights (ECHR).

The clamping regime was provided for by Parliament in primary legislation and could not be overridden by general administrative law.

The appellant's submissions on Article 6 confused substantive rights with procedure. Article 6 was not concerned with the substantive law; it was designed to ensure that there were proper procedural safeguards wherever civil or criminal questions were being determined, to ensure a fair and just outcome: R (Westminster) v Parking Adjudicator [2003] RTR 1. The appellant's submissions were directed at the rights he contended the motorist should have under the substantive law. For example, in referring to mitigating circumstances he argued that the substantive law should provide for the tribunal to be able to allow appeals on the basis of

mitigation. But the substantive law did not make any such provision, and therefore there was no breach of Article 6 because there was no substantive right for it to engage.

The appellant contended that the clamping regime was not compliant with Article 6 because payment of the penalty and release charges was required before a hearing of the motorist's liability for those moneys. There was nothing in Article 6 that prohibited such a regime.

## Clamping did not achieve traffic management objectives

The 1991 Act provided for the clamping of vehicles contravening parking restrictions. That did not mean there was complete carte blanche in exercising the power. The power must be exercised lawfully; and its exercise was subject to judicial control. However, it was not the function of that judicial control to dictate policy or practice to the local authority. Those were matters for the local authority, subject only to the limited judicial control of scrutinising whether the policies and practices were lawful under general public law principles.

The local authority's position was that clamping was intended to deter the owner of a vehicle against contravening in the future and as a visual deterrent to others who might consider parking unlawfully. It considered that it was effective as a deterrent and it was its policy to use it for that purpose. It had contracted with NCP to carry out clamping on its behalf. The contract set a "clamp achievement level" as a Key Performance Indicator (KPI). This was reviewed from time to time, and in 2005/06 was set at just over 27,000. NCP agreed to risk a proportion of its management fee to achieve all KPIs.

There was no basis for contesting the policy or practice on public law grounds. The local authority was entitled to come to the view that clamping was a deterrent. It was not for the adjudicator to enter into a debate about how effective the local authority's policy and practice were. His concern was whether they were lawful.

To give effect to the policy the local authority

would have to clamp vehicles in sufficient numbers to present the desired deterrent. In that context, to set NCP the task of clamping 27,000 vehicles a year was entirely rational.

### Clamping was indiscriminate

The appellant argued that clamping was indiscriminate and that NCP "blitzed" areas. The fact that the threat of clamping was a random one was an essential element in its effectiveness as a deterrent, which would be diminished or negated completely if it were predictable. Concentrating enforcement on a particular area was in itself not unlawful.

The appellant also argued that clamping his vehicle was self-defeating in that it resulted in his vehicle occupying the residents' space for longer than would otherwise have been the case. That might be so, but was an argument for the wider debate about the merits of clamping; it did not render the clamping unlawful.

### Clamping was disproportionate

On proportionality, the appellant relied on Article One of the First Protocol to the ECHR. He argued that clamping was in breach of that provision as its objective could be achieved by less restrictive means: putting up warning signs. But signs warning of the threat of clamping would be useless unless the threat were real. So they would not be an alternative to actual clamping, merely an additional element in a clamping regime. The general question was whether clamping achieved a fair balance between the general interest of the community and the requirements of the protection of the individual's rights. There was a clear public interest in encouraging compliance with parking controls, and the use of clamping as a deterrent to non-compliance, with the temporary loss of use of the vehicle that was the point of the sanction, passed the "fair balance" test.

Accordingly, the general clamping regime applied by the local authority was lawful, as was the particular clamping of the appellant's vehicle carried out in conformity with it.

Appeal refused

### Removal; Proportionality; Human Rights Act 1998 De Florio v Kensington & Chelsea (PATAS Case No. 2060072389)

The appellant contested the lawfulness of the removal of the vehicle.

The council had a policy of prioritising the removal of vehicles. The vehicle was parked in contravention in the 4th category of priority. The appellant submitted to me that the council had conducted itself unlawfully by not following this policy, nor the central government guidelines. The adjudicator said that the applicable principle of law was that propounded in the case of Provincial Picture Houses -v- Wednesbury Corporation (1948): had the council conducted itself in a manner so unreasonable and perverse that no reasonable enforcing authority would have conducted itself in that way?

The council had not breached that test. The vehicle was unlawfully parked on a fairly busy thoroughfare. The appellant's assertions that the council had not complied with a removal priority suggested some requirement upon a parking attendant, leading a vehicle removal team, to record having travelled the immediate neighbourhood looking for vehicles with a higher priority and should only have removed this vehicle after an alternative search for more badly parked vehicles had been exhausted. It was entirely understandable that a council might establish a priority criteria for the purpose of the effective use of resources, but that could not be evolved so as to be used as a benchmark of reasonable activity.

Proportionality was a principle of law which fell to be considered in judicial proceedings if there was a finding of engagement of any of the articles of the European Convention on Human Rights.

The removal of a vehicle in the circumstances of this case did not breach Article 1 of the First Protocol. The removal action did not deprive the appellant of his property rights in the vehicle; it merely restricted the right of possession by a control over the vehicle for a few hours subject to

a release payment of £200. Such an action was in pursuance of a legitimate aim, i.e. controlling the use of vehicles and traffic management in the general interest, and was proportionate in achieving that aim. It was not a matter of deprivation of property, but of temporary control.

The removal was therefore lawful. Appeal refused

### Appealing after payment of penalty Strauss v Kensington & Chelsea (PATAS Case No. 2050448466)

The appellant contended that a motorist could pay the reduced penalty charge and still go on to contest the penalty, ultimately by appealing to the parking adjudicator.

The adjudicator said that the enforcement scheme prescribed by the Road Traffic Act 1991 was comprehensive and its interpretation straightforward. Section 66(3)(c) prescribed a period of 28 days for payment of the penalty charge. If the penalty was not paid within that time, paragraph 1 of Schedule 6 empowered the local authority to pursue enforcement by serving a Notice to Owner. There was then a mechanism for the recipient of the Notice to Owner to contest liability, ultimately by appealing to the parking adjudicator.

If the penalty charge was paid within the 28 days that was an end of the matter. There was then no power to serve a Notice to Owner, because there was nothing to pursue enforcement of. It was only through the enforcement process starting with the Notice to Owner that the right to challenge the penalty and ultimately the right to appeal to the parking adjudicator arose. If the penalty was paid within the 28 days prescribed, those rights never arose. Nor could the motorist require the local authority to serve a Notice to Owner where the penalty had been paid. There was no power to serve a Notice to Owner unless the penalty had not been paid.

There was no distinction in this respect between paying the full penalty or taking advantage of the reduced penalty available under section 66(3)(d).

The appellant's argument relied on interpreting "paid" differently in sections 66(3)(d) and (e). There was no justification for so doing. It was generally presumed that the same word meant the same thing if used in different provisions in the same statute. Here, the same word was used in successive paragraphs of a sub-section. There was no reason for departing from the usual presumption. The natural interpretation did not lead to an unreasonable or irrational result. Furthermore, paragraph (c) alone dealt with the requirement to pay the penalty. Paragraph (d) merely set out a particular consequence if the payment were made within the first 14 days.

This scheme did not breach the requirement under Article 6 of the European Convention of Human Rights for there to be an effective right of access to the tribunal. The provision for the reduced penalty served the clear public interest in providing an incentive to motorists to settle their parking penalties promptly and so minimise the need for the council having to pursue enforcement through further action. To allow motorists to pay at the reduced rate but still go on to contest the penalty would plainly undermine that legitimate aim. The provision for the reduced penalty was an entirely proportionate measure in relation to the legitimate aim it sought to achieve.

### Appeal refused

## Review: extension of time limit Rubin v Barnet (PATAS Case No. 2050255881) and 11 others

The appellant applied under regulation 11 of the Road Traffic (Parking Adjudicators) (London) Regulations 1993.for review of 12 cases.

Regulation 11(3) provided that an application "shall be made ... within 14 days after the date on which the decision was sent to the parties..." All the applications were made substantially out of time, ranging between 11 months and over four months. The appellant requested the adjudicator to exercise his power under regulation 14(1) to extend the time for making an application.

The adjudicator said that the time limit was there for a good reason. It reflected the principle that there was a public interest in the finality of

proceedings. It also accorded with the principle of proportionality; the penalties in question were relatively small, and the proceedings relating to them needed to be proportionate to what was at stake. It was not desirable for such proceedings to be unduly time consuming or protracted. The time limit served these aims. If adjudicators were freely to extend the time limit, this would undermine the purposes for which it was in place.

Adjudicators were therefore slow to extend the time limit and would only do so in exceptional circumstances.

The appellant had put forward no good reason for the very long delay in making these applications. The applications amounted in substance to no more than "I have belatedly thought of new arguments that I wish I had put forward at the time of the appeal". That was not a good reason for extending the time for making an application. Indeed, even if the applications had been made within time, it was very doubtful whether any of the grounds for review would have been satisfied. New arguments were not new evidence, of which there was none relevant to the issues in the appeals. Nor did the interests of justice generally require that an appellant should be allowed to reargue his appeal putting forward fresh arguments that he could perfectly well have put in the first place.

But in any event, even if the appellant might have had good grounds for a review if he had applied within time, that was not a reason for extending time so long after the appeals were refused. If it were, it was difficult to see why any appellant would not be able to seek to reopen their appeal at any time, thus effectively rendering redundant the time limit prescribed by the 1993 regulations and completely undermining the public interest in the finality of proceedings.

### Applications rejected

# Review, nature of jurisdiction; adequacy of signage Rowe v Hammersmith & Fulham (PATAS Case No. 2050138505) and others

All the appeals concerned bays in which during certain hours parking was permitted with either a permit or a pay & display ticket and at other times

with a permit only. The unusual feature of the restrictions was that permit parking included parking with a visitor's permit but only if coupled with a pay & display ticket. The time plates made no reference to the need for a pay & display ticket to be displayed with a visitor's permit. The pay & display ticket machine stated "Controlled Hours Monday - Saturday 09.00 - 20.00" followed by the parking charges, without drawing any distinction between the permit and pay & display hours on the one hand and the permit only hours on the other. The fact that during the permit hours parking with a pay & display ticket alone was not allowed was referred to only among the "Conditions of Use", which were in much smaller typeface.

The appellants contended that the instructions on the pay & display machine were unclear and had misled them into thinking that during permit only hours they could park with a pay & display ticket only. The potential for this had been identified in a letter from the Department for Transport.

The adjudicator said that the signage failed to bring the key provisions of the restrictions to the motorist's attention and was confusing. It was not asking a great deal of the council to ensure that the time plate more fully reflected the restrictions (permit and P&D ticket); and for the machine to have a prominent instruction to the like effect. He allowed all but one of the appeals.

The council applied for review of those decisions on the ground that "the interests of justice required a review". The adjudicator who heard the application rejected it. He said that a review was conducted by a peer adjudicator and was granted only if one of the limited grounds for review was established. It was not the purpose of the review procedure for a party to shop a case around the adjudicators in the hope of obtaining a favourable decision. The decision was detailed and thorough following comprehensive argument. There was no manifest error of law and the decision was plainly one the adjudicator was entitled to come to. The interests of justice did not require a review. On the contrary, those interests, including the interest in the efficient administration of justice achieved by the saving of time and cost from not conducting a

review in the circumstances, required that if the council wished to contest the decision its appropriate course was to apply to the High Court for judicial review.

As to the merits of the application, he observed that the substance of the instructions on the machine was that Monday to Saturday 09.00 to 20.00 the bays were pay & display bays. They were not. The instructions on the machine were both inconsistent with the signs and did not correctly state the restrictions that applied. As a minimum the machine should mirror the information on the signs, not be inconsistent with them, so making clear that at certain times the bays were both pay & display and permit and at others permit only. This then made clear that at permit only times the primary requirement was to have a permit. The conditions that attached to the use of the visitor's permit needed to be set out on it, and the face of the permit ought to draw attention very prominently to the condition requiring the display of a pay & display ticket with it.

Applications rejected

# Signs and Lines Brine v Wandsworth (PATAS Case No. 2060074679)

The appellant parked in St Cyprian's Street in a pay & display bay. He bought a pay & display ticket from the nearest machine, which happened to be round the corner in Totterdown Street. Tickets from this machine were not valid for parking in St Cyprian's Street. The issue was whether the signage made this clear.

The time plate in St Cyprian's Street said "Pay at machine" and had an arrow pointing down the street to the correct machine. The time plate also showed the times of restriction, the maximum stay of 4 hours' parking and the zone, E2. The instructions on the machine in Totterdown Street showed times of restriction (which were different from those on the time plate in St Cyprian's Street), the maximum stay of 1 hour, the tariff and other detailed instructions. There was, however, nothing expressly saying that the machine was limited to use for certain bays and identifying

which bays. Tickets it issued bore the zone number, E2 - the same zone as for St Cyprian's Street. Without more, therefore, the ticket was likely to reinforce a mistaken view that it was valid for the bays in St Cyprian's Street.

The adjudicator said that the arrow on the time plate did not convey, nor was meant to convey, the message that the machine in that direction was the only one that could be used. It was merely intended to assist the motorist in locating a machine. A very astute motorist might conclude from the difference in restriction and maximum stay times that the tickets from the Totterdown Street machine were not valid for St Cyprian's Street, but that was setting too high a standard for the ordinary motorist. The instructions on the machine should expressly state the geographical limits of the machine.

Accordingly the signage was inadequate.

Appeal allowed

## Carey v Transport for London (PATAS Case No. 2060537813)

Two penalty charge notices were served on Miss Carey for alleged contraventions of 'no right turn' signs.

Miss Carey said that because of the dense foliage that had grown around each of the two 'no right turn' signs, she was unable to see them before turning.

The adjudicator referred to Coombes v Director of Public Prosecutions, DC, 14 December 2006 in which Mr Justice Walker found that a motorist was not liable for disobeying signs indicating a speed limit which only became visible at the point at which the motorist drove past them because until that point they were obscured by overgrown hedgerows.

The case related to a conviction under the Road Traffic Regulation Act 1984, for driving a motor vehicle on a road at a speed exceeding the prescribed maximum. The motorist relied on the defence set out in Section 85(1), which provided that a person should not be convicted of such an offence unless the limit was indicated by a prescribed sign.

The Court held that two tests had to be met before a conviction. The first was that the prescribed signs were there at the material time. The second was that those signs indicated the relevant speed limit. The Court further held that, at the very least, the second test involved a requirement that, at the geographical point where the motorist exceeded the limit, the signs could reasonably have been expected to have conveyed the limit to an approaching motorist in sufficient time for him to reduce from a previous lawful speed to a speed within the new limit.

The objective of Section 85(1), it was held, was plainly that motorists should not be convicted in the absence of adequate guidance. In the case then before the Court, the requirement described was not met.

Section 85 of the 1984 Act did not specifically pertain, as penalty charge notices are issued for contraventions not criminal offences.

Many penalty charge notices were issued because a vehicle was permitted to remain at rest in circumstances where that was not allowed. It was the responsibility of the motorist to check carefully on each occasion before leaving their vehicle, so as to ensure that they left it only as permitted and that this would remain the position for as long as the vehicle would be there.

However, the present penalty charge notice was issued for what was often called a 'moving contravention'. The sign indicating the prohibition on turning right at this point in New Cross Road was directly analogous to a sign indicating a reduction in the maximum speed. In both cases the motorist clearly had to be able see the sign while driving, in order to be aware of it.

Besides the contemporaneous images produced by Transport for London, they had also produced some location shots of the signs. These were taken some two months earlier. Miss Carey had also produced her own photographs, taken a few days after the incident.

Miss Carey's images and those taken from the recording of the alleged contravention contrasted sharply with the earlier location shots in that,

over the space of a couple of months, the foliage around the signs had increased surprisingly rapidly. The signs were somewhat lost in the growth, certainly from the position of a motorist approaching the signs on the carriageway.

The adjudicator was not satisfied that the signs, as they were at the material time, could reasonably have been expected to have conveyed the prohibition to an approaching motorist in sufficient time for them to see it before executing the prohibited manoeuvre.

Accordingly the contravention had not occurred.

Appeal allowed

# Multiple exemptions Luther v Wandsworth (PATAS Case No. 2060042435)

The appellant stopped to set down a passenger. He was then prevented from moving off by a traffic jam that formed because of an altercation between a cyclist and a motorist. He got out of his car to investigate and spoke to the cyclist and motorist to explain he needed to get somewhere urgently. As the jam began to clear he returned to his car to find he was being issued with a penalty charge notice.

The adjudicator found that stopping to set down the passenger was within the alighting exemption and that the subsequent inability to move off because of the traffic conditions was within the exemption for vehicles being prevented from moving by circumstances beyond the driver's control.

Appeal allowed

### Exemption: stopping for an emergency Stegers v Transport for London (PATAS Case No. 2060522995)

The appellant stopped to allow his mother to get out of the car and walk around. This was because she had had a knee replacement and was in considerable and increasing discomfort. She had been warned that it was potentially dangerous for her to be sitting in one position. They were stopped for no more than a couple of minutes.

Transport for London had written to the appellant "there are no exemptions in the red route loading and disabled bay outside the permitted times". This was not the case; there were a number of exemptions in the Traffic Management Order. It was a matter of concern that Transport for London's staff were apparently unaware of the terms of the Orders they were enforcing.

One exemption was stopping for an emergency. These circumstances fell within that exemption, given the increasing discomfort that the appellant's mother was in. The potential risk to her health was plainly an emergency and rather more important than a restriction against stopping. No contravention had occurred.

Appeal allowed

# Vehicle unable to move because of circumstances beyond driver's control GSL Ltd v Kensington & Chelsea (PATAS Case No. 2060175326)

The local authority did not dispute that the vehicle had a faulty alternator cable. It said, however, that the vehicle being unable to move for this reason did not constitute a reason beyond the driver's control. The adjudicator said he failed to see why it was not. It was not equivalent, as the local authority suggested, to running out of petrol.

Appeal allowed

## Boarding/alighting where loading restricted Cox v Hackney (PATAS Case No. 2060238630)

The appellant said he stopped to pick up a passenger. The adjudicator said it appeared from the local authority's correspondence and representations that it did not realise that the boarding/alighting exemption applied even where there were loading restrictions. As a result it had completely failed to address whether the exemption applied. The stills it had produced tended to support the conclusion that it did; boarding activity could be clearly seen.

It was extremely disturbing that the local authority apparently did not know the relevant

law. This raised the possibility that it had rejected other representations where in fact the exemption applied.

Appeal allowed

### Exemptions; expiry of temporary order Lee v Transport for London (PATAS Case No. 2060426608)

The Traffic Management Order that Transport for London produced was an experimental order that came into force on 26 June 2003. Under section 9 of the Road Traffic regulation Act 1984, such orders have a limited life, usually a maximum of 18 months. Transport for London had produced no evidence that the Order was still in force and by what mechanism, if indeed it was. On the evidence, there was no traffic regulation in force that the appellant had breached.

The adjudicator in any event accepted her evidence that she had just started to suffer an asthma attack and went into the bus lane to turn left into York Way so that she could stop. That was clearly an emergency that would fall within the exemption in paragraph 5(2)(c) of the Order. The adjudicator said it was unacceptable that Transport for London had completely failed to address that point and gave the impression of being unaware of the terms of the order.

Appeal allowed

# Invalid Order Wright v Wandsworth (PATAS Case No. 2060298982)

The council had purported to impose a temporary prohibition on the waiting of vehicles under s.9 London Local Authorities Act 1995. However there was only power to do so in connection with a "special event" as defined in s.9 (8). A household removal was not a "special event" and it followed that the council had no power to make the Order. It would seem that this was a case where one would simply expect there to be an ordinary suspension of a parking place (which was, significantly, what was asked for on the form provided and how the "prohibition" was described). As the Order relied on was legally

ineffective the vehicle was not in contravention.

Appeal allowed

### Heavy commercial vehicles Reynolds v Havering (PATAS Case No. 2060188962)

The contravention alleged on the penalty charge notice was "heavy commercial vehicle parked ...partly on footway", which is a contravention under section 19 of the Road Traffic Act 1988. That Act defines a heavy commercial vehicle as any goods vehicle which has an operating weight exceeding 7.5 tonnes. The appellant produced evidence to show that the operating weight of the vehicle was less than 7.5 tonnes. The parking attendant had noted that the vehicle's tax disc showed that it was an HGV (heavy goods vehicle). The adjudicator said that the term heavy goods vehicle should not be confused with heavy commercial vehicle. An HGV can be a vehicle over 3.5 tonnes, and may therefore not be a heavy commercial vehicle.

Appeal allowed

### Parking adjacent to dropped footway Chergui v Waltham Forest (PATAS Case No. 2060172565)

Section 14 of the London Local Authorities and Transport for London Act 2003 prohibits parking on the carriageway adjacent to a dropped footway. "Dropped footway" is defined as any part of the footway or verge where it has been lowered to meet the level of the carriageway of a road for the purpose of assisting pedestrians crossing the road or assisting vehicles to enter or leave the road across the footway or verge. A penalty charge notice was issued to the vehicle for parking next to a dropped footway. However, the vehicle was parked not on the carriageway but on the lowered part of the footway. It was therefore not in breach of this contravention.

Appeal allowed

# Inadequate description of contravention in PCN: location insufficiently identified Adamou v Haringey (PATAS Case No. 2060381000)

The contravention alleged was entering and stopping in a box junction when prohibited. The penalty charge notice alleged that the contravention occurred "in High Road N22".

Mrs Adamou telephoned the council on receipt of the PCN and asked them about this contravention. She was told that it had taken place at the junction of Ewart Grove and High Road N22. She pointed out to the person she spoke to that there was no box junction at that location. When the council served photographs with their Notice of Rejection they made no mention of Ewart Grove.

The council finally stated in their case summary that the box junction was actually at the junction of High Road and Bounds Green Road; the junction with Ewart Grove was simply where the camera was located.

The council had no fewer than nine cameras in High Road N22, six of which were located at junctions. High Road was a long road with a considerable number of junctions. It was evident from Mrs Adamou's case that she did not know on receipt of the PCN where the contravention was alleged to have occurred.

Had the PCN specified "High Road N22 at its junction with Bounds Green Road" Mrs Adamou would have known where to look. As it was, by simply stating "in High Road N22", the PCN did not comply with the requirements of Section 4(8)(a)(i) of the London Authorities and Transport for London Act 2003, that the PCN "must...state...the grounds on which the council... believe that the penalty charge is payable". Those grounds must be expressed in terms that allowed the recipient of a PCN to know not just the nature of the alleged contravention, but where it was said to have occurred.

No valid PCN was served on Mrs Adamou, and so the council could not enforce the penalty.

Appeal allowed

### Pay-by-phone parking Bawor v Wandsworth (PATAS Case No. 2060177682)

Two appeals relating to the use of pay-by-phone parking. The council's pay-by-phone system allowed payment of parking charges by mobile phone. The system maintained electronic records of payments. It was run on behalf of the council by a company, Parkmobile.

Drivers had to register on the system beforehand and were given instructions how to use it. An electronic transponder card was displayed on the windscreen. To commence parking the driver activated the system by telephoning a number and giving details to the automated system as to location (by inputting a code number displayed at the location) and received an acknowledgement. At the end of the parking the user telephoned to deactivate the system. Parking attendants checked whether the system had been activated by pointing a bar code reader at the transponder card. Parkmobile calculated the fees, which were billed for payment.

Condition 2.9 of the conditions of use stated: "You can only assume that the beginning or end of your parking transaction has been validly accepted by the Parkmobile system when you have received a confirmation of this via your mobile telephone. You are responsible for ensuring that you have properly activated the system for the relevant parking zone before you leave your vehicle unattended..."

Condition 2.10 said that if the user cannot access the system then the parking must be paid for in the alternative way of purchasing a pay and display voucher.

The adjudicator said that Miss Bawor was a regular user and he had seen records showing an example period of how often she had activated and deactivated the system.

Miss Bawor was not sure of her recollection as to what happened on the dates concerned. However she described sometimes having difficulty getting through on the phone and may have walked away from the vehicle to get a signal. She had used the Parkmobile system at this car park almost every day since Sept 2005 while walking her dog in the park.

The records of the system showed that on 1 November 2005 the appellant had activated the system at 11:06 and deactivated it at 13:05. The PCN was issued at 10:51.

On 8 December 2005 the appellant had activated the system at 16:06 and deactivated it at 18:47. The PCN was issued at 15:32.

The adjudicator said he regarded her testimony as entirely honest and showing her use. However he had less confidence in her specific recollection of the two days in question. The likelihood was that on both of these occasions Miss Bawor left her vehicle unattended without either activating the system or receiving any acknowledgement. Judging by her testimony, she either forgot to activate until a little later or she could not immediately get through and decided to walk away and re-try later.

Appeals refused

# Exercise of discretion National Grid v Camden (PATAS Case No. 2060169800)

While the vehicle was parked in contravention, it was there to attend to an emergency gas leak in a property. The local authority nevertheless declined to exercise its discretion to cancel the penalty charge notice. The adjudicator referred the matter back to the local authority as the local authority's approach seemed to him to have implications for public safety. As a result the local authority reviewed its policy on matters of this kind and said that this case would now be one where they would exercise their discretion to cancel the penalty charge notice. It accordingly decided not to contest this appeal. The adjudicator commended the local authority for its approach, which was an excellent example of a receptive and constructive approach by a local authority to feedback received from the tribunal.

Appeal allowed



