

Road User Charging Adjudicators' Annual Report 2014-15

The Road User Charging Adjudicators form an independent tribunal which decides appeals against Congestion Charging penalties and Low Emission Zone penalties in London.



Road User Charging Adjudicators' Tribunal

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Table of contents (click item reference to go to section. Click on symbol in top right hand corner of pages to return to contents)	Page
<u>1.</u> Aims and objectives of the Road User Charging Adjudicators	3
<u>2.</u> Role of the Road User Charging Adjudicators	3
<u>3.</u> Chief Adjudicator’s foreword	4
<u>4.</u> Annual conference day—February 2015	5
<u>5.</u> New complaints procedure	5
<u>6.</u> Data protection	5
<u>7.</u> The new hearing centre	6
<u>8.</u> History of Legal London	7
<u>9.</u> The Road User Charging Adjudicators	10
<u>10.</u> Useful information	11
<u>a)</u> Structure of the Road User Charging Adjudicators’ Tribunal	
<u>b)</u> The appeal process	
<u>c)</u> Grounds of appeal	
<u>d)</u> London Tribunals’ web site	
<u>e)</u> Statutory Register	
<u>f)</u> Previous years annual reports	
<u>Appendix One:</u> Appeals and Fees charged 2006 – 2015	15
<u>Appendix Two:</u> Congestion Charging Statistics 2006 – 2015	16
<u>Appendix Three:</u> Maps of the Congestion Charging Zone and the Low Emission Zone	17
<u>Appendix Four:</u> New complaints procedure	18
<u>Contact details and back cover</u>	



1. Aims and objectives of the Road User Charging Adjudicators

- ◆ To provide all parties to road user charging appeals with independent, impartial and well-considered decisions based on clear findings of fact and proper application of law.
- ◆ To have the appropriate knowledge, skills and integrity to make those decisions.
- ◆ To ensure that all parties to road user charging appeals are treated equally and fairly regardless of age, ethnic origin, gender, marital status, sexual orientation, political affiliation, religion or disability.
- ◆ To enhance the quality and integrity of the road user charging appeals process.

2. The Role of the Road User Charging Adjudicators

- ◆ Adjudicators are appointed in accordance with Regulation 3 of *The Road User Charging (Enforcement and Adjudication) (London) Regulations 2001*, as amended.
- ◆ Their role is set out by Regulations 11(2) and 16(2) of the same Regulations which states that an Adjudicator “shall consider the representations in question and any additional representations which are made by the appellant on any of the grounds mentioned in regulation 10(3) or regulation 13(3)”.
- ◆ The Court of Appeal has made it clear, in the case of *R (on the application of Joan Margaret Walmsley) v Transport for London [2005] EWHC 896 (Admin)*, that it is not part of an Adjudicator’s role to consider factors which fall outside of the grounds mentioned in regulations 10(3) or 13(3) and accordingly what might be described as ‘mitigating factors’ are matters for the Enforcing Authority to consider and are not matters for Road User Charging Adjudicators.



3. Chief Adjudicator's foreword

I am pleased to present to the Secretary of State this joint report of the Road User (Congestion) Charging Adjudicators for the year 2014 – 2015.

This joint report is required by Regulation 8 of the Road User Charging (Enforcement and Adjudication) (London) Regulations 2001 (as amended).

In July 2015 the tribunal moved from its former premises in Angel Square, Islington to a new hearing centre in Furnival Street near Chancery Lane. The tribunal had been at Angel Square since February 2009. Furnival Street is therefore the Tribunal's third premises since the tribunal began its work in 2002. As with the previous centres it is sited with good transport links nearby. I would like to thank all those involved in the move.

As well as moving the hearing centre the tribunal changed its service provider from Capita to Northgate Public Services.

I would like to thank the staff of Capita for their many years of dedicated service, in particular Colin Simpkin, Penny Spofforth, Eugene O'Keefe and Amanda Conroy. We look forward to working with Northgate Public Services in a constructive partnership.

The change of service provider has inevitably caused some disruption to the work of the Tribunal as new systems have had to be developed.

I would like to apologise to all appellants who have had their appeals delayed or postponed because of this disruption over the summer of 2015. Happily all systems are now working well and all the backlogs have been cleared.

The tribunal enjoys a constructive relationship with the GLA although of course we are a completely independent body. I would like to record the work of Victoria Hills who has now moved to a new role, and to acknowledge the contribution made by her successor Tim Steer.

I would like to thank the team of Adjudicators who have regularly given their time and experience to this Tribunal. A list of the Adjudicators is given at page 10 of this report.

The Tribunal has now determined more than 160,000 appeals since 2002, and in the last year achieved an average time of 30 minutes to determine a personal appeal and 26 minutes for a postal appeal.

In February this year we held a day's conference for adjudicators and we were very pleased to welcome guests from London Councils, the GLA and Northgate Public Services. The topics that were covered included:

- Judge craft issues
- Overview of the role and processes of Ministry of Justice
- Presentation by Northgate Professional Services
- Data Protection
- The new Complaints Procedure

In this report we have included summaries of some of these topics for the benefit of users of this Tribunal.

Over the year the number of appeals received has remained at an average of 540 a month. The percentage of hearings begun within 15 minutes of their allotted time slot has remained high at 79%.

There have been no major initiatives or developments in the Congestion Charging Scheme itself over the past year. In March 2015 the Mayor of London announced that after a consultation he had decided to introduce the Ultra-Low Emission Zone in the congestion charging zone of Central London from the 7th September 2020. This will require vehicles travelling in that zone to meet new emission standards 24 hours a day, 7 days a week.

This Tribunal continues to offer the opportunity for appellants to argue their appeals before an adjudicator face to face. The success of this Tribunal will always be measured by the fairness of the hearing afforded to appellants, whether they win or lose their appeals.

Finally I would like to thank the administrative team, led by Richard Reeve, who contribute significantly to the successful functioning of the tribunal.

Ingrid Persadsingh

Chief Road User Charging Adjudicator

4. Annual Conference day— February 2015

Professor Jeremy Cooper, Director of Training (Tribunals) Judicial College gave a presentation on Judge Craft issues, including assessment of credibility and handling of witnesses.

Sue Holloway from Northgate Professional Services gave a talk on how Northgate were going to improve the current IT processes in the Tribunal.

Fiona Dickie, Adjudicator gave a presentation on Data Protection, while Christopher Woolley, Adjudicator outlined the new Judicial Complaints process for the Tribunal.



5. New complaints procedure

The opportunity has been taken to revise the complaints procedure of this tribunal in the light of developments in practice and the law.

Although this Tribunal is not subject to the Judicial Complaints (Tribunals) Rules 2014 our practice has been aligned to these rules so far as possible.

It is an important safeguard for appellants to be able to raise a complaint about the misconduct of an adjudicator, but it is equally important once such a complaint has been raised that there is a fair and timely procedure for investigating the complaint.

It is important to recognise that complaints about the decision, or about the system itself, are not dealt with under this procedure.

The text of the procedure is produced in full at Appendix 4 for the benefit of appellants and all those who may be involved in a complaint.

6. Data protection

The Tribunal regards the protection of the personal data of appellants as a very high priority.

Where the telephone recordings of conversations between the appellant and Transport for London are provided as part of an appeal (which may often reveal personal data and financial information such as credit card or banking details) it is kept in a locked safe and only released to adjudicators when dealing with an individual case. It is then returned to a locked safe. All appeal evidence is destroyed 3 months after the final conclusion of a case.

All adjudicators have been trained on Data Protection principles, which are that the holding and use of data must be:

- Lawful, fair, and in accordance with Schedule 2 and 3 conditions of the Data Protection Act
- Not reused for incompatible reasons
- Adequate, relevant and not excessive in relation to the purposes for which they are processed
- Accurate and up to date
- Kept for no longer than necessary
- Respectful of specific data subject rights
- Subject to appropriate technical/organisational security measures
- Not transferred outside EEA without additional security

In their decisions Adjudicators are careful not to mention personal information (e.g. about health issues) and will only do so where essential for the purposes of the decision. Banking or credit card details will never be mentioned in the decisions.

No data is permitted to be transferred outside the hearing centre either in physical or electronic form. The decision itself however will be kept indefinitely on the statutory register which is available for public inspection.

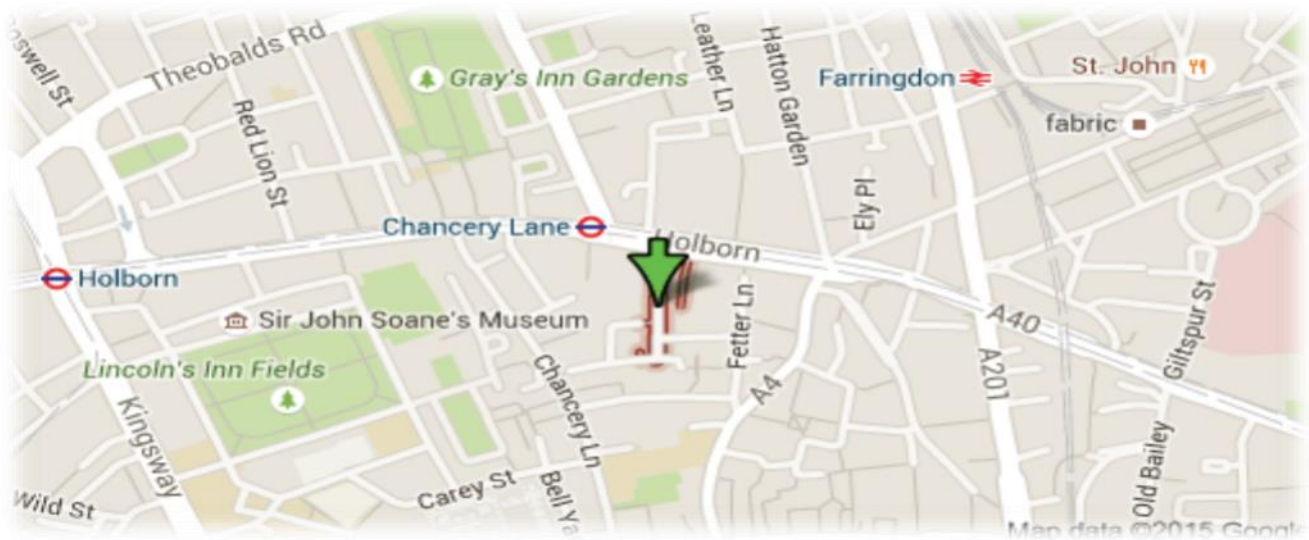
This is a requirement of the Regulations.



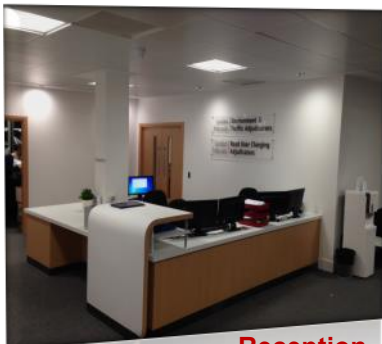


7. The new hearing centre

We are now established in our new hearing centre at Chancery Exchange on Furnival Street.



This is a historic building which has been modernised to a high standard. The centre offers bright and airy hearing rooms, with comfortable waiting facilities for our appellants.



Reception



Waiting area



Hearing rooms



Hearing room exterior



Hearing room interior



8. History of Legal London

In the summer of 2015 we relocated from Angel to Furnival Street which is in the London area of Holborn in the City of London – The Old Square Mile. The nearest station is Chancery Lane – two minutes to the North West. Furnival Street is bounded by Holborn to the North and Fleet Street to the South. The building we now occupy was the former Patent Office, which is now based in South Wales.

It is in the heart of London's legal world with the Inns of Court and the Law Society very close by. The current Inns of Court – Inner Temple, Middle Temple, Lincoln's Inn and Gray's Inn. There was also a Furnival's Inn at Holborn, an Inn of Chancery, once attached to Lincoln's Inn. The Court of Chancery had jurisdiction of all matters of equity including trusts and Land Law. It is now a Division of the High Court. Furnival's Inn was built in 1383. It survived the Great Fire of 1666 but together with the other Inns of Chancery ceased to exist in the 19th century. Sir Thomas More was Reader of the Inn from 1504 -1507. Charles Dickens rented rooms there between 1834-1837 and began to write 'Pickwick Papers'.

J.M Barrie lived in a set of chambers at No.7 from 1888-1889.



The former site of Furnival's Inn (demolished in 1897)

In addition there was another Inn of Chancery – Staples Inn, dating from 1585 - once attached to Gray's Inn.

Like Furnival's Inn it was also dissolved but Staples Inn remains intact on the South side of High Holborn. It is now used for meetings of the Institute and Faculty of Actuaries. It also survived the Great Fire.

The four Inns of Court, Inner Temple, Middle Temple, Lincoln's Inn and Gray's Inn are the professional associations for barristers in England and Wales.

All barristers must belong to an Inn.



Staples Inn



The Arms of the Inns of Court

Lincoln's Inn

Gray's Inn



Lincoln's Inn dates from 1422 and is in the borough of Camden.

Inner Temple

Middle Temple



Inner Temple and Middle Temple date from 1388 and are situated in the City of London. Middle Temple is situated on the former site of the Knights Templar called the Temple Church. The Knights Templar were dissolved in 1312. Twelfth Night was first performed in the Middle Temple in 1602.



All the Inns are situated near to the Western boundary of the City of London, near to the Royal Courts of Justice.

Location of Inns of Court in relation to Furnival Street / Chancery Lane

Furnival Street runs parallel to Chancery Lane to its West. 113 Chancery Lane is the home of the Law Society, the independent professional body for solicitors of England and Wales.

It was formed in 1825 and is responsible for the discipline and education of solicitors.



The Chancery Lane entrance to the Law Society

Chancery Lane itself takes its name from the historic High Court of Chancery.

It was the chosen route by the Knights Templar from their old property at Southampton Buildings on Holborn – ‘The Old Temple’ - to their newly acquired property to the south of Fleet Street, the present Temple sometime before 1161.

In the 14th century Chancery Lane became the estate of the Master of the Rolls. His official residence ‘Rolls House’ was situated there. It stored official records. It later became the Public Records Office – becoming the national archive. In 1907 it became the Museum of the Public Record Office. In the latter 20th century,, records gradually moved to Kew.

In 2001 the building underwent renovation and became the Maughan Library, the largest academic library of Kings College London. The Patent office was originally situated at Southampton buildings.

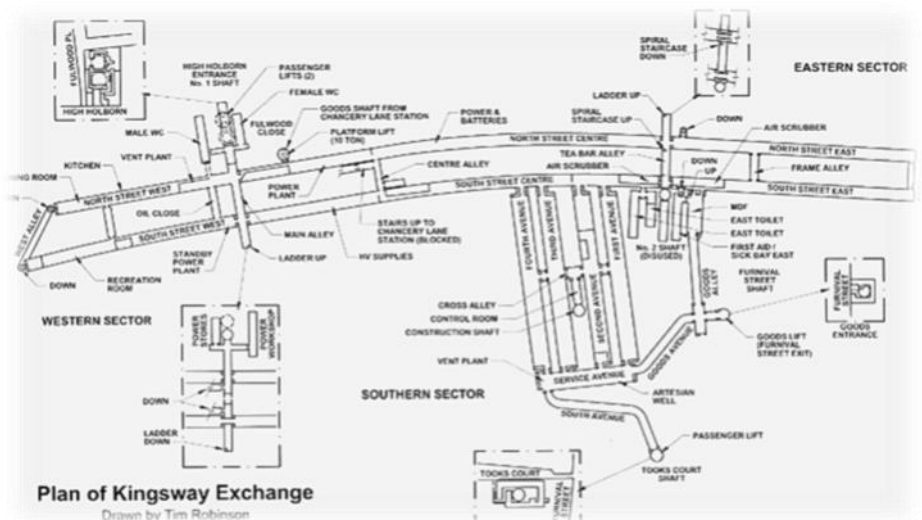
Opposite the tribunal is 39 Furnival Street which is the gateway and primary access to a secret underground world, two parallel tunnels approximately 380 meters long which run underneath the Central line tunnels which run along Chancery Lane.

The idea of deep shelters developed after the 1940 Blitz.

Hidden behind the heavy duty hoist, the oversized ventilation grill and the formidable steel doors – all seen in the photograph below – is a goods lift that leads down to the endless warren of tunnels known initially as the Chancery Lane Deep Shelter and latterly as the Kingsway Trunk Exchange. It took five years to build and after the War the tunnels were briefly occupied by 400 tons of Public Record Office documents until the late 1940’s when government decided because of communications vulnerability in times of conflict, to transform the tunnels into a protected telephone exchange. The project was completed in 1954, during the Cold War period, and the ‘underground town’ became home (at its peak) to 200 workers a day.

It continued to operate secretly until the 1980’s when the equipment became increasingly redundant when a decision was made to abandon the project.

Nearby is Leather Lane with its well-known market and Hatton Garden, centre of the diamond trade. Farringdon Station, the closest mainline station, has recently been restored to its Victorian splendour.



9. The Road User Charging Adjudicators

Mercy Akman

Jane Anderson

Angela Black

Ian Coutts

Gordon Cropper

Jane Cryer

Leslie Cuthbert

Joanna Dickens

Fiona Dickie

George Dodd

Anthony Edie

Gillian Ekins

Andrew Harman

Fiona Henderson

Anitra Hussein

Ian Keates

Graham Keating

Maggie Kennedy

Sanjay Lal

John Lane

Francis Lloyd

Maura Lynch

Isaac Maka

David Malone

Paul Middleton-Roy

Ian Mohabir

Michael Nathan

Belinda Pearce

Martin Penrose

Ingrid Persadsingh

Annabel Pilling

Luthfur Rahman

Christopher Rayner

Anita Reece

Timothy Smith

Alison Spicer

Jan Verman

Anwen Walker

Christopher Woolley



10. Useful Information

The structure of the Road User Charging Adjudicators' Tribunal

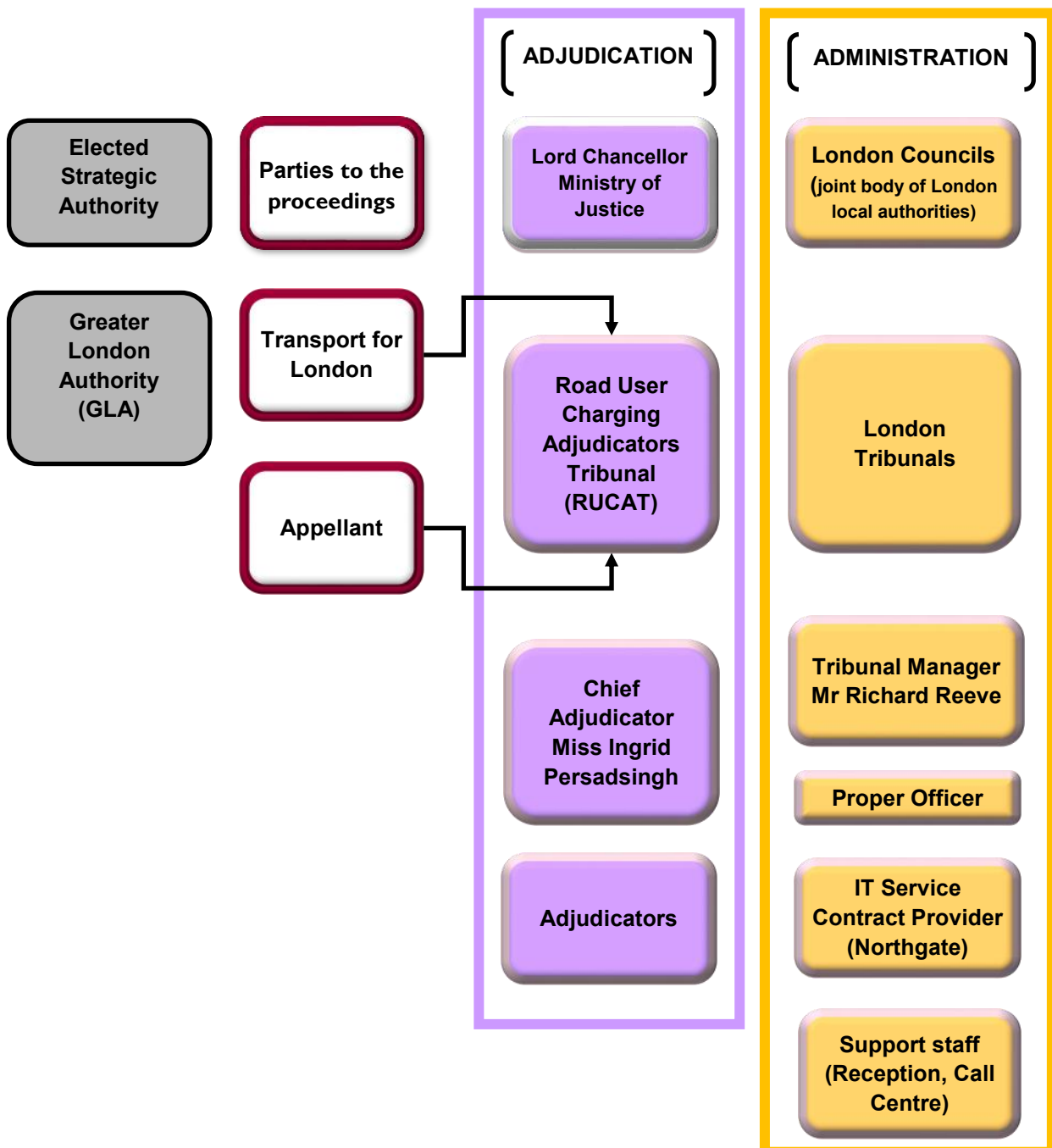
What is 'RUCAT'?

RUCAT is the 'Road User Charging Adjudicators Tribunal. It is an independent tribunal which decides appeals against Congestion Charge and Low Emission Zone penalties in London.

Who are London Tribunals?

London Tribunals provides administrative support to the Road User Charging Adjudicators. Under the Road Traffic Act 1991 and the Traffic Management Act 2004, London Councils is required to provide this service to the Parking and Traffic Adjudicators and provides the same service for the Road User Charging Adjudicators under contract to the GLA.

The following diagram explains the structure of RUCAT and London Tribunals:





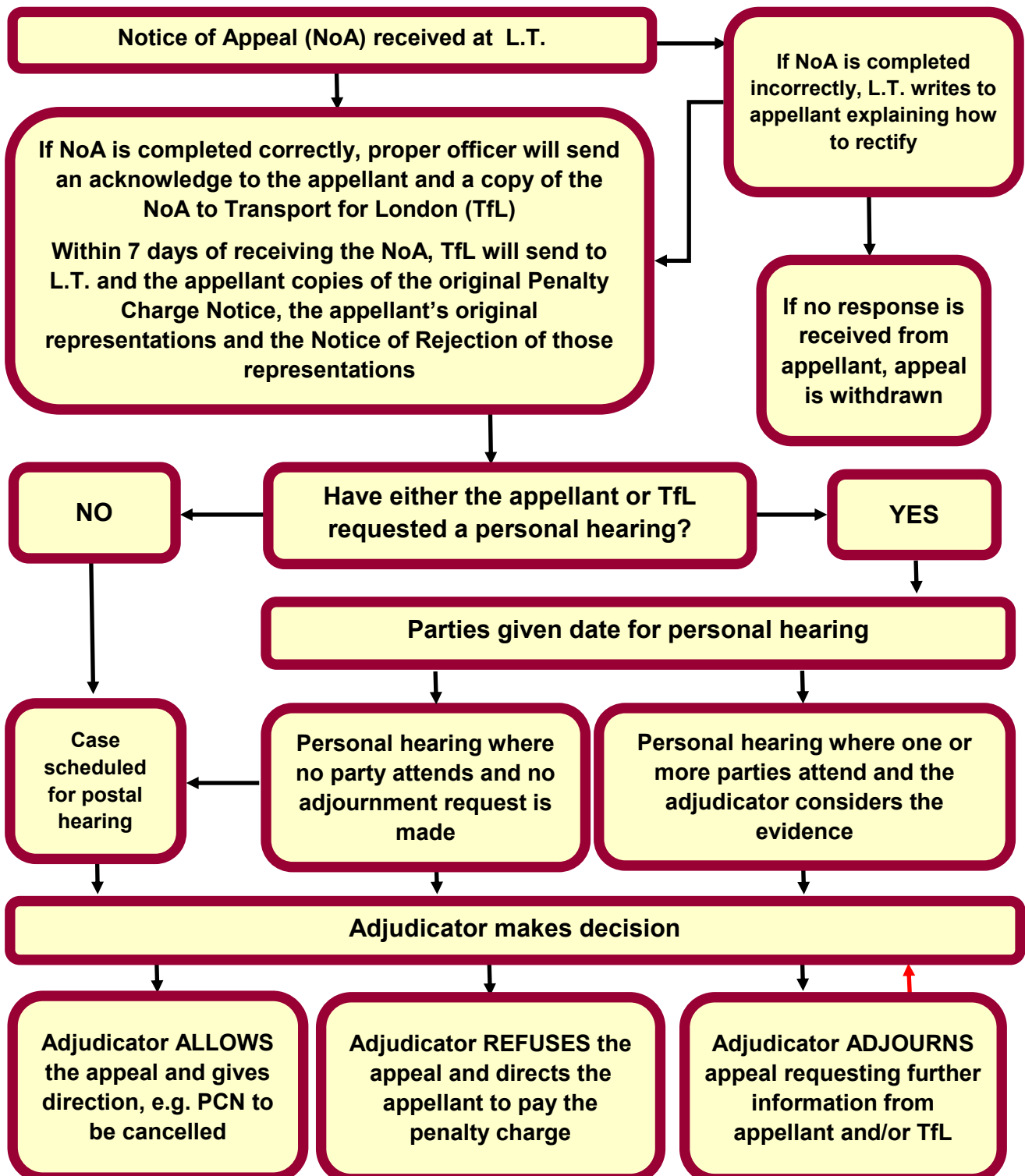
The appeal process

If Transport for London serves a Penalty Charge Notice arising from an alleged Congestion Charge or Low Emission Zone contravention, the registered keeper of the vehicle is entitled to contest the penalty charge by making written representations to Transport for London.

If Transport for London accepts those representations, then the PCN will be cancelled.

If Transport for London rejects the representations, the registered keeper of the vehicle may APPEAL to the Road User Charging Adjudicator. The APPEAL is an appeal against Transport for London's decision to reject the written representations.

The following diagram explains the process of an appeal after it is received by London Tribunals ('L.T').





Grounds of appeal

Initially the responsibility is on Transport for London to demonstrate that a contravention has occurred.

This means that Transport for London must produce evidence to the Adjudicator to prove that:

- 1) A relevant vehicle;
- 2) was used or kept within the congestion charge area or low emission zone;
- 3) during the designated hours of a particular date; and
- 4) that the appellant is the registered keeper of the vehicle; and
- 5) that the correct payment for that vehicle for that date has not been received by Transport for London or that the vehicle was not subject to an exemption.

If Transport for London produces this evidence, the onus will shift to the appellant to satisfy the Adjudicator that, on the balance of probabilities, one or more of the six statutory grounds of appeal applies.

These grounds are:

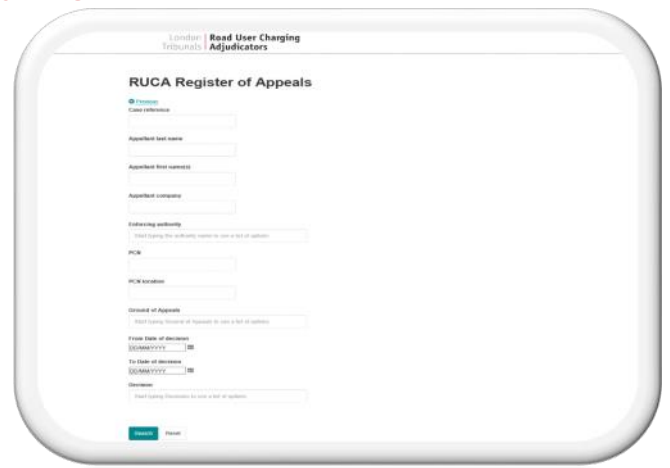
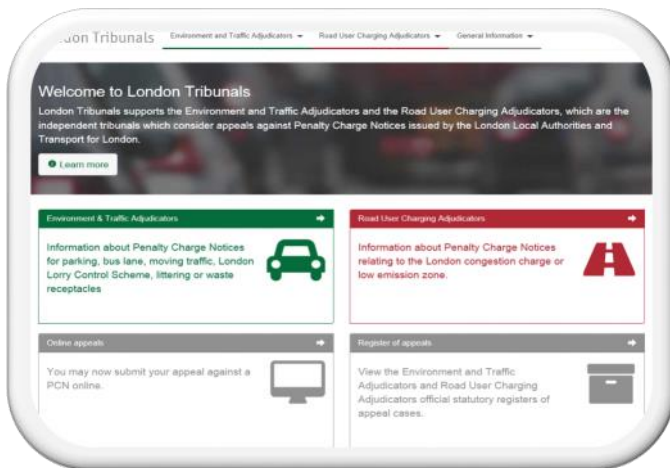
- (a) that the recipient -
 - (i) never was the registered keeper in relation to the vehicle in question; or
 - (ii) had ceased to be the person liable before the date on which the vehicle was used or kept on a road in a charging area;or
 - (iii) became the person liable after that date.
- (b) that the charge payable for the use or keeping of the vehicle on a road on the occasion in question was paid at the time and in the manner required by the charging scheme.
- (c) that no penalty charge is payable under the charging scheme.
- (d) that the vehicle had been used or kept, or permitted to be used or kept on a road by a person who was in control of the vehicle without the consent of the registered keeper.
- (e) that the penalty charge exceeded the amount applicable in the circumstances of the case.
- (f) that the recipient is a vehicle hire-firm and;
 - (i) the vehicle in question was at the material time hired from that firm under a hiring agreement; and
 - (ii) the person hiring it had signed a statement of liability acknowledging his liability in respect of any penalty charge notice imposed in relation to the vehicle during the currency of the hiring agreement.

Please note:

These grounds apply to both alleged congestion charge and low emission zone contraventions.

The Adjudicator CANNOT consider mitigating factors. This has been upheld by the High Court.

London Tribunal's website and statutory register



London Tribunals maintains a website (www.londontribunals.gov.uk) with the aim of providing information, guidance and assistance to anyone intending to appeal to the tribunal.

The daily lists of each day's cases before the tribunal can be viewed, as well as maps and travel advice on getting to the hearing centre.

The website offers a useful guide to each stage of the enforcement process, explaining the options available to the appellant at each stage.

The Statutory Register (see right) can also be accessed through this website.

This is the official register of cases at the Road User Charging Tribunal, kept under Section 21 of the Schedule to the Road User Charging (Enforcement and Adjudication) (London) Regulations 2011.

It is a register of all appeals and the decisions made on them.

The Register can be viewed online and can be browsed for one day of appeals at a time, or a more specific search (looking, for instance, at the appellant's name) can be made. The Register can also be examined at the hearing centre.

Previous annual reports (click on image to open report)



2003-04



2004-05



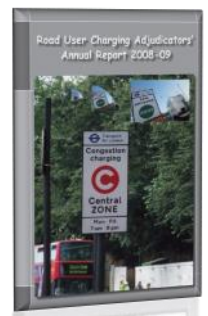
2005-06



2006-07



2007-08



2008-09



2009-10



2010-11



2011-12



2012-13

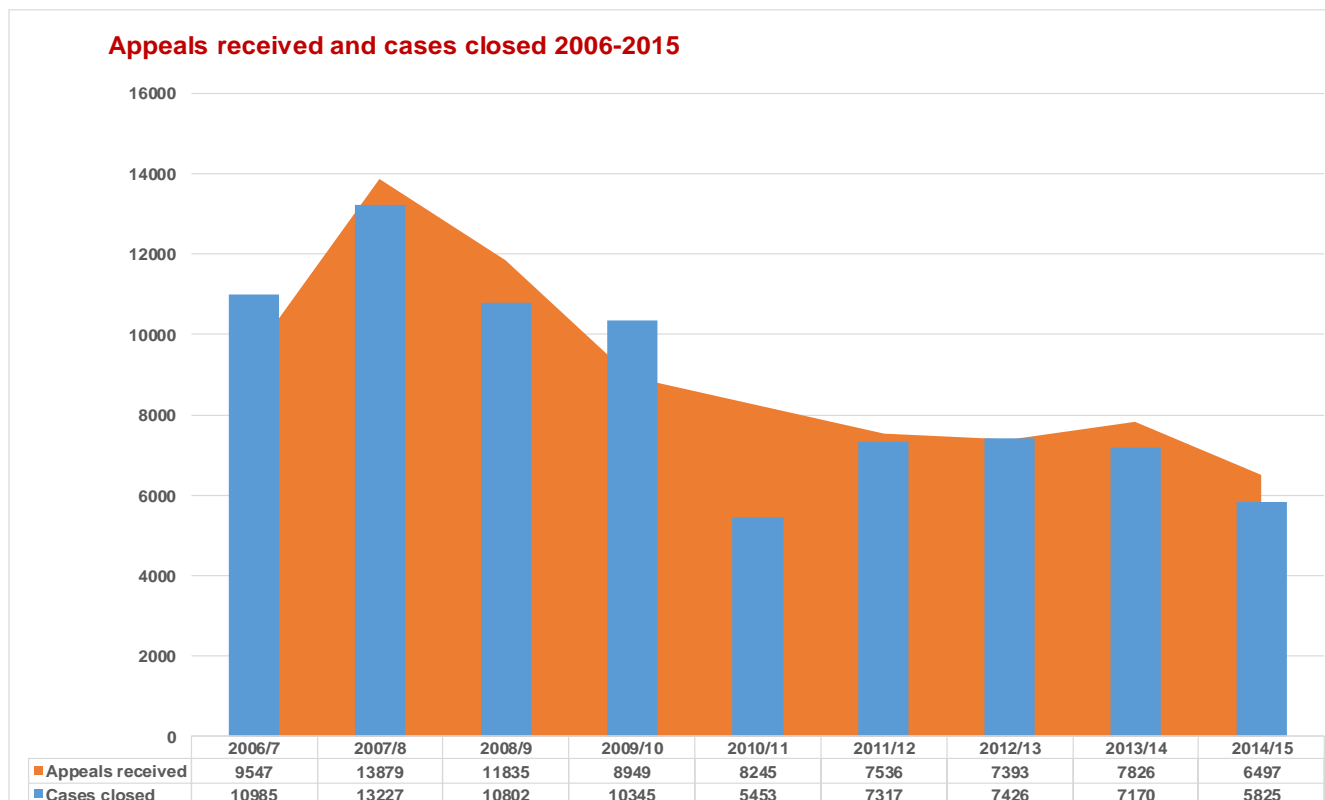


2013-14

Appendix One—Appeals and fees charged 2006—2015

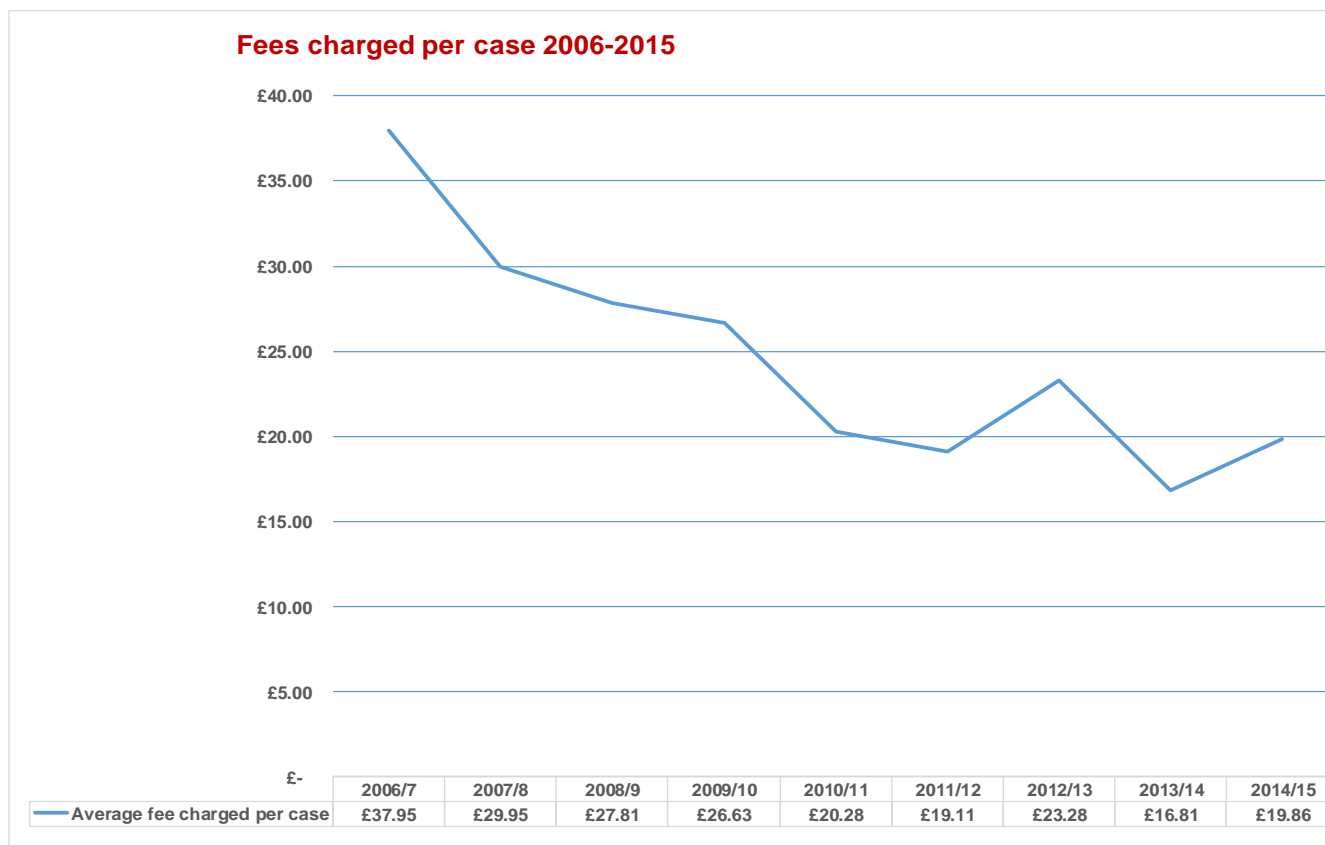
Appeals 2006-15

(see previous reports for figures prior to 2006)



Fees charged per case 2006-15

(see previous reports for figures prior to 2006)





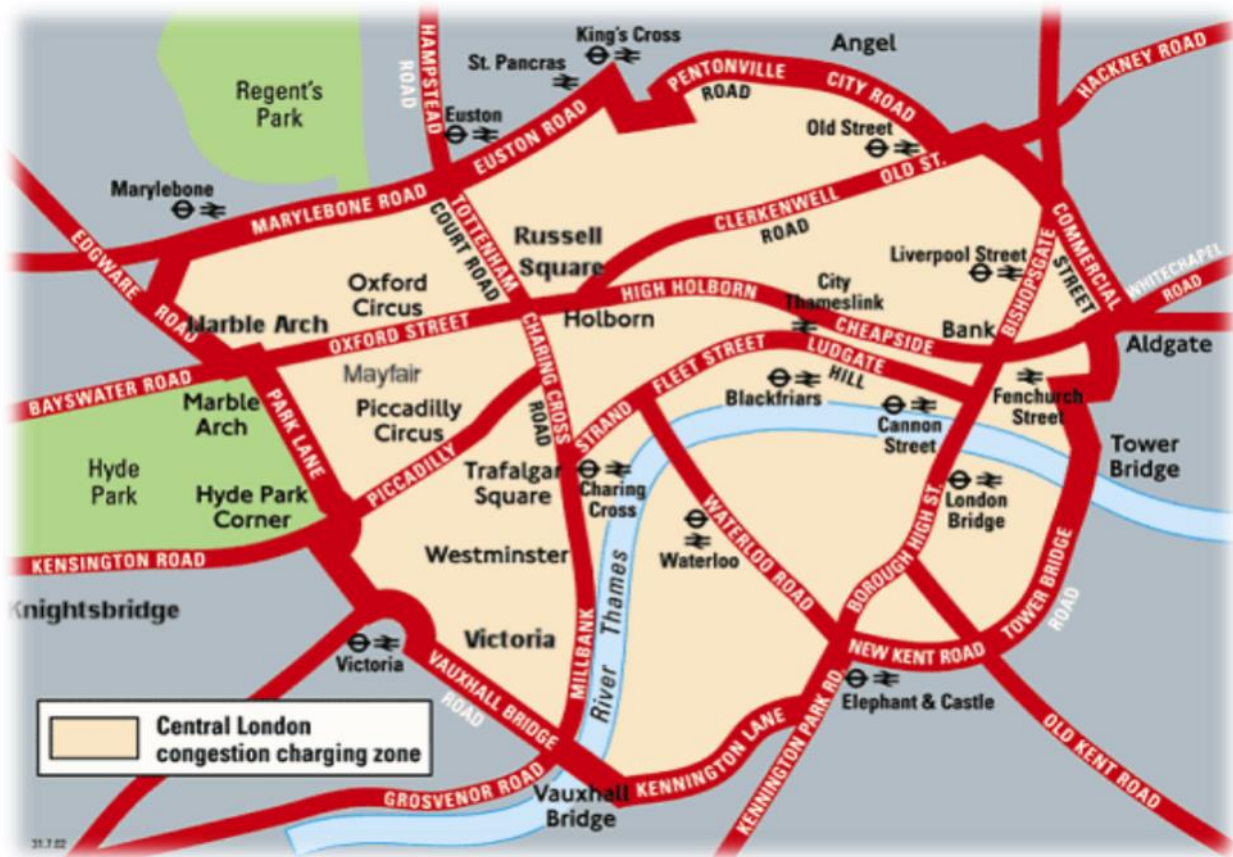
Appendix Two—Congestion Charging Statistics 2006 – 2015

	2006/7 Total	2007/8 Total	2008/9 Total	2009/10 Total	2010/11 Total	2011/12 Total	2012/13 Total	2013/14 Total	2014/15 Total
appeals received	9547	13879	11835	8949	8245	7536	7393	7826	6497
Total cases closed	10985	13227	10802	10345	5453	7317	7426	7170	5825
appeals withdrawn by appellants	138	123	100	130	113	108	103	248	188
appeals not contested by TfL	2883	5571	4854	3963	2481	1568	1313	1589	1382
appeals refused postal	6179	5832	4605	5279	2236	4869	4311	3873	3255
appeals allowed postal	3200	4584	4096	3302	1936	1321	1141	1195	1117
appeals refused personal	505	758	663	526	444	547	1174	1447	987
appeals allowed personal	1060	2034	1436	1237	837	580	797	655	463
closed administratively	41	19	2	1	0	0	3	0	3
appeals adjourned	1608	836	706	636	225	407	299	92	129
review decisions	181	136	113	70	49	83	64	93	114
costs decisions	12	17	15	14	18	4	10	33	73
postal cases ready for adjudication at end of year	306	340	306	38	889	568	229	351	591
personal hearings scheduled	1614	1836	1453	1130	895	871	1170	1133	922
	2006/7 Avg	2007/8 Avg	2008/9 Avg	2009/10 Avg	2010/11 Total	2011/12 Total	2012/13 Total	2013/14 Total	2014/15 Total
% withdrawn by appellants	1.14%	0.93%	0.93%	1.26%	2.07%	1.48%	1.39%	3.46%	3.23%
%not contested by TfL	27.28%	42.12%	44.94%	38.31%	45.50%	21.43%	17.68%	22.16%	23.73%
% refused postal	54.95%	44.09%	42.63%	51.03%	41.00%	66.54%	58.05%	54.02%	55.88%
%allowed postal	30.01%	34.66%	37.92%	31.92%	35.50%	18.05%	15.36%	16.67%	19.18%
%refused personal	4.50%	5.73%	6.14%	5.08%	8.14%	7.48%	15.81%	20.18%	16.94%
%allowed personal	10.24%	15.38%	13.29%	11.96%	15.35%	7.93%	10.73%	9.14%	7.95%
% closed administratively	0.36%	0.14%	0.02%	0.01%	0.00%	0.00%	0.04%	0.00%	0.05%
% of cases allowed	40.25%	50.03%	51.21%	43.88%	50.85%	25.98%	26.10%	25.80%	27.12%
	2006/7 Avg	2007/8 Avg	2008/9 Avg	2009/10 Avg	2010/11 Total	2011/12 Total	2012/13 Total	2013/14 Total	2014/15 Total
average postal hearing (mins)	43.79	53.91	51.75	43.20	33.79	35.18	27.22	24.67	25.84
average personal hearing (mins)	60.13	77.86	65.96	61.72	49.98	49.95	43.98	34.08	30.70
% of cases 1st considered within 56 days	49.36%	84.43%	61.81%	43.99%	58.91%	26.78%	34.32%	41.92%	36.10%
average days delay*	80	55.5^	n/a	n/a	n/a	n/a	n/a	n/a	n/a
% hearings within 15 mins	76.42%	74.83%	76.27%	69.75%	72.00%	71.83%	83.08%	80.97%	79.08%
summary of decisions by ground of appeal (allowed)	2006/7 Total	2007/8 Total	2008/9 Total	2009/10 Total	2010/11 Total	2011/12 Total	2012/13 Total	2013/14 Total	2014/15 Total
appellant not registered keeper	131	96	59	70	30	65	23	40	59
charge has already been paid	387	328	146	135	43	44	147	25	7
no charge is payable under the scheme	518	487	356	317	163	162	378	245	133
vehicle hire firm	174	71	124	43	24	29	37	11	15
penalty exceeded relevant amount	180	52	34	39	33	40	36	29	10
vehicle used without appellant's consent	56	40	30	28	11	20	4	15	13
summary of decisions by ground of appeal (refused)	2006/7 Total	2007/8 Total	2008/9 Total	2009/10 Total	2010/11 Total	2011/12 Total	2012/13 Total	2013/14 Total	2014/15 Total
appellant not registered keeper	389	409	292	232	140	243	196	206	240
charge has already been paid	1148	1229	990	1045	295	660	585	548	319
no charge is payable under the scheme	2354	2609	2105	2493	1051	2844	3030	2956	2009
vehicle hire firm	1899	1202	850	897	621	830	859	642	656
penalty exceeded relevant amount	1064	1163	804	987	444	793	753	645	688
vehicle used without appellant's consent	113	176	97	128	54	80	81	62	42
*The way in which this figure is calculated changed in October 2006.									
^ Only recorded up until July 2007									

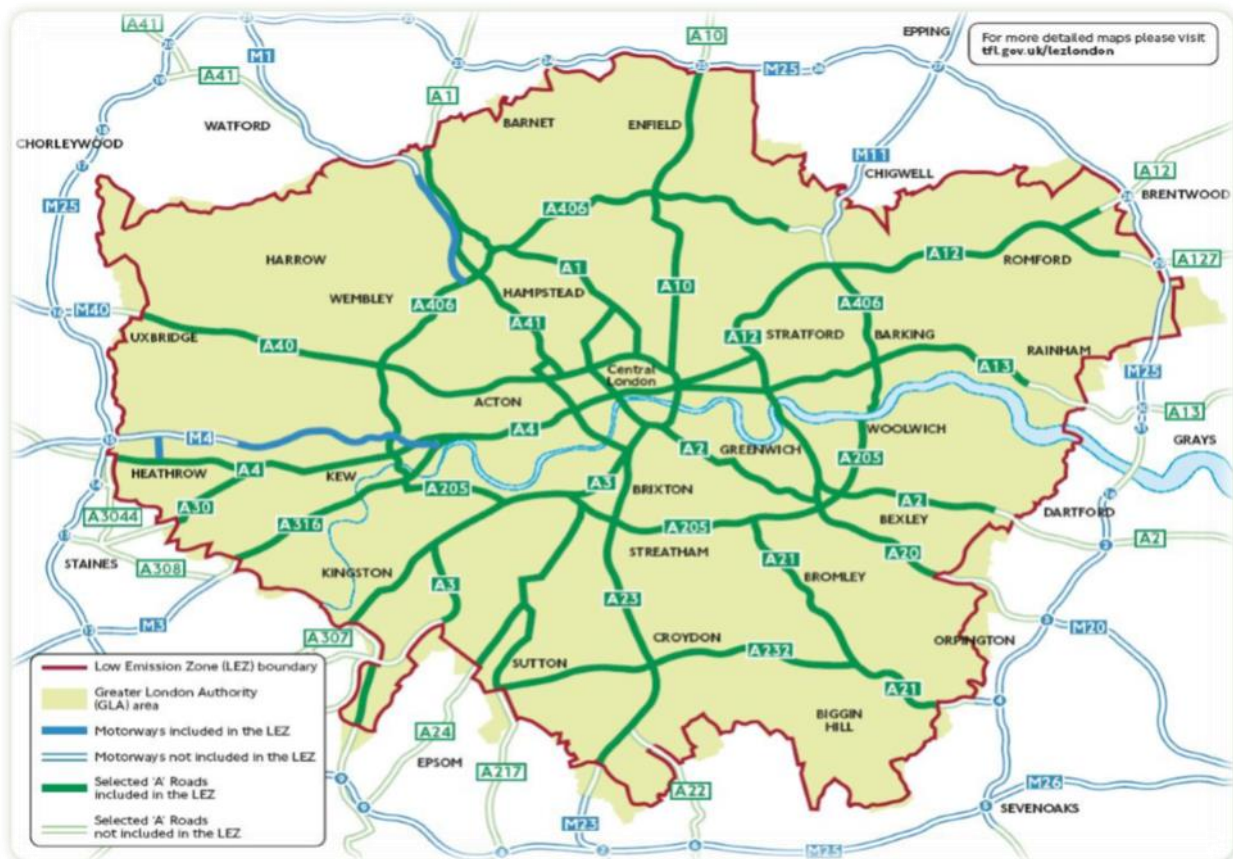


Appendix Three—Maps

Central London congestion charging zone



Low Emission Zone



Appendix Four—

Road User Charging Tribunal Judicial Complaints Procedure

Introduction

It has long been established that institutions which serve the public should have a considered and effective approach to the handling of complaints.

In creating this Complaints Procedure for handling complaints of judicial misconduct made against Road User Charging Adjudicators (referred to henceforth as “Adjudicators”) regard has been had to “The Guidance for Handling Complaints against Judicial Office-Holders within Tribunals”, the “Judicial Complaints (Tribunals) Rules 2014”, and the “Judicial Conduct (Tribunals) Rules 2014 Supplementary Guidance”.

These Rules and Regulations do not govern this tribunal but so far as possible this procedure is aligned with them.



Where a user of the Road User Charging Tribunal makes a complaint which is not about judicial misconduct (e.g. if they complain about the state of the waiting facilities) then the complaint will not be dealt with under this procedure which is exclusively concerned with judicial misconduct.

Similarly if the “complaint” is about the system, the scheme, or a particular process or procedure it will not be dealt with under this procedure but in the ordinary course of the Chief Road User Charging Adjudicator’s correspondence.

Where the complaint is made by tribunal staff against an adjudicator, or by one adjudicator against another adjudicator, the internal grievance process will be used rather than this procedure.

1. The underpinning principles

Five principles underpin this complaints handling procedure:

1. Openness – all parties must be given the opportunity to participate and express their views in regards to any complaint.

No complaint will be determined against an Adjudicator without giving that individual the opportunity to comment on the complaint.

2. Timeliness – the ability of all parties to recall events accurately will decrease with time.

Therefore clear targets will be set for every stage of the process once a complaint has been received to ensure that complaints are dealt with as promptly as possible.

However, if a complaint relates to an issue or issues which may be amenable to review or to a case which is ongoing, a response or, indeed, any investigation, may have to be deferred until the case is concluded.

3. Fairness – complaints should be dealt with consistently and the procedure must be fair to both the complainant and the Adjudicator who is the subject of the complaint.

This procedure explains the processes and the standards to be used.

All complaints will be investigated and decided by another Road User Charging Adjudicator appointed by the Chief Road User Charging Adjudicator (referred to henceforth as the “Chief Adjudicator”) for this purpose (“the Investigating Adjudicator”).

A complainant or Adjudicator who disagrees with a decision of the Investigating Adjudicator will have a right of appeal to the Chief Adjudicator or, if the complaint relates to the Chief Adjudicator or they were the Investigating Adjudicator, to the Chief Parking and Traffic Adjudicator.

If a complainant or Adjudicator is dissatisfied with the outcome of the complaint they may make a complaint to the Office for Judicial Complaints.

In addition, if either the complainant or the Adjudicator who was the subject of the complaint is dissatisfied with the manner in which a complaint was handled, they may contact the Judicial Appointments and Conduct Ombudsman to investigate this.



4. Accountability – those investigating and deciding a complaint are accountable for the decisions they make.

This means that an investigation into a complaint must at all times be based on evidence.

The Investigating Adjudicator will be expected to be able to justify the decision made on a complaint by reference to the evidence presented during the investigation which should have been conducted in an inquisitorial manner to the civil standard of proof i.e. on the balance of probabilities.

5. Confidentiality – information gathered during the investigation of a complaint is confidential between the parties involved, the Investigating Adjudicator and anyone determining a review of an Investigating Adjudicator's decision (although disclosure may be permitted under Section 139 of the Constitutional Reform Act 2005).

2. The Aims and Scope of the Complaints Procedure

The procedure is not intended to introduce an excessively elaborate approach to dealing with complaints of judicial misconduct. It aims to:

- Deal with genuine complaints of judicial misconduct fairly and appropriately whilst ensuring that time is not wasted pursuing enquiries into vexatious or malicious complaints.
- Ensure that Adjudicators are seen to be unbiased and to make decisions that are not affected by prejudice.
- Maintain the confidence of the public that Adjudicators within the Road User Charging Tribunal live up to the very high standards expected of them in discharging their judicial duties.
- Allow Adjudicators to learn from genuine errors in regards to their personal conduct while ensuring that they have a fair opportunity of responding to a complaint.



3. What is “judicial misconduct”?

The sort of judicial misconduct which may be complained about includes:

- Discrimination
- Inappropriate behaviour and comments, including rude or offensive remarks, shouting, banging the table or speaking in a sarcastic manner
- Misuse of judicial status (e.g. using judicial title for personal gain)
- Not fulfilling judicial duties (e.g. unacceptable delay in reaching a decision)
- Criminal convictions
- Professional misconduct (e.g. findings by a professional body)

Examples of what is not covered by ‘personal conduct’ include:

- Complaints about a judicial decision (e.g. the outcome of an appeal hearing including any alleged conflict of interest)
- Complaints about case management decisions (e.g. whether a case should have been adjourned)

4. What is a complaint?

In order for the process to begin a complaint must be received and considered by the Chief Adjudicator.

What is a complaint?

1. A complaint is an expression of dissatisfaction about a particular Adjudicator as opposed to someone simply expressing views on ‘the system’ or a particular process or procedure.

2. The complaint must be made or recorded in writing i.e. by letter or e-mail – therefore if made orally it may only be accepted as a complaint if the complainant is told and agrees that it is put down in writing.

The complaint must be received in the English language. Arrangements will be made for anyone who is unable to write down a complaint, for example because of language difficulties or disability.

3. The complaint must contain an allegation of misconduct; give the time and date of the alleged misconduct, and provide the name and address of the person making the complaint.

For example a complaint which simply states that the adjudicator was rude is not adequately particularised – the complainant should say what the adjudicator did or said so as to behave inappropriately and at what part of the hearing this occurred.

4. The complaint must not be vexatious – the Chief Adjudicator may decide that a complaint has already been answered or is malicious and so requires no further action, other than a response to that effect. The receipt of new evidence, however, may justify a new investigation.

5. The complaint will not be accepted if the complainant says that they do not wish the subject of the complaint to see a copy of the complaint or for the complainant's identity to be disclosed.

6. The complaint must be accompanied by the originals or copies of any documents within the control of the complainant to which he or she intends to refer.

5. Action on receipt of a complaint

On receipt of a complaint the Chief Adjudicator will determine whether or not an allegation of misconduct has been made by the complainant.

If the Chief Adjudicator deems there is no valid complaint of judicial misconduct the Chief Adjudicator will dismiss the complaint and write to the complainant informing them of this and no further action will be taken.

The Chief Adjudicator will dismiss the complaint if it falls into any of the following categories:

- It is about a judicial decision or judicial case management
- It is vexatious or without substance, untrue, mistaken or misconceived
- It does not particularise the matter complained of
- Even if true it would not require any action to be taken
- It is about the private life of an adjudicator not affecting their suitability to hold judicial office
- It is about the professional conduct in a non-judicial capacity of an adjudicator not affecting their suitability to hold judicial office
- It raises a matter which has already been dealt with, whether under these rules or otherwise, and does not present any material new evidence.



Even if the Chief Adjudicator deems there to be no complaint of misconduct and dismisses the complaint, the Chief Adjudicator may still give the tribunal member such advice as the Chief Adjudicator considers necessary.

If the complaint is dismissed as invalid the Chief Adjudicator is not obliged to inform the subject of the complaint but may do so as a matter of discretion.



6. If a valid complaint is made

If the Chief Adjudicator determines that there is a 'valid' complaint of judicial misconduct capable of investigation then the Chief Adjudicator will appoint another Adjudicator to act as the Investigating Adjudicator. The overall responsibility will nevertheless remain with the Chief Adjudicator.

The subject of the complaint cannot be the Investigating Adjudicator nor may any Adjudicator who has had dealings with the complainant's appeal act as such if the complaint has come from an Appellant involved in an appeal before the Road User Charging Tribunal.

If the Chief Adjudicator is the subject of the complaint then the Chief Parking and Traffic Adjudicator will determine if the complaint is valid (following the process outlined above) and will appoint a Road User Charging Adjudicator to be the Investigating Adjudicator.

The Investigating Adjudicator will investigate the complaint in accordance with this procedure adopting an inquisitorial approach and will determine whether or not the complaint is made out on the balance of probabilities.

The Investigating Adjudicator will then write to both the complainant and the Adjudicator explaining their investigation and their conclusions.

The subject of the complaint is responsible for co-operating with the investigation process and for responding to requests for comments and information in a timely manner.



A complainant or Adjudicator who disagrees with the decision of the Investigating Adjudicator will have a right of appeal to the Chief Adjudicator or, if the complaint relates to the Chief Adjudicator or they were the Investigating Adjudicator, to the Chief Parking and Traffic Adjudicator.

7. When will complaints not be investigated under this procedure?

A Complaint will not be investigated under this Procedure (irrespective of its merits) in the following circumstances:

1. If an adjudicator no longer holds judicial office in the Road User Charging Tribunal (e.g. because they have retired or resigned).
2. If the adjudicator is a member of another court or tribunal and the complaint is being investigated by that court or tribunal.
3. Where the issue complained about was done by someone else (e.g. a member of the administrative staff).
4. Where the issue complained about does not fall within the definition of 'judicial misconduct'.

8. Investigation of a complaint

In investigating the complaint the Investigating Adjudicator may take such steps as they consider to be appropriate including:

- Seeking further clarification or detail from the complainant;
- Interviewing the Adjudicator that is the subject of the complaint;
- Interviewing other potential witnesses to the personal conduct alleged;
- Listening to any audio recording of a hearing or obtaining a transcript of a hearing;
- Examining any paperwork relating to the appeal.
- In undertaking their investigation the Investigating Adjudicator may receive assistance from members of the administrative staff in:
 - Checking basic factual information relating to a complaint
 - Identifying other potential witnesses
 - Assembling materials
 - Communicating with the parties to the complaint

Information provided during the course of a complaint investigation will be considered to be confidential to the person who disclosed it (whether the complainant, the subject of the complaint, or a third party) but may be disclosed in accordance with Section 139 of the Constitutional Reform Act 2005.

9. Resolving the complaint

If a complaint has been deemed valid and has been investigated by an Investigating Adjudicator a response to the complaint will be created by the Investigating Adjudicator (the "resolution letter") and will be sent to the complainant and the subject of the complaint.

The resolution letter shall:

- Summarise the nature and substance of the complaint;
- Describe the investigation process;
- Summarise the conclusions giving reasons for each conclusion.

Where a complaint is dismissed (for instance where the evidence available does not suggest that the personal conduct more likely than not occurred) this will be made clear in the response to the complainant and the subject of the complaint.

Where it is determined that the personal conduct asserted in the complaint is more likely than not to have occurred, either entirely or in part, an appropriate response will be sent to the complainant and the subject of the complaint.

The response will, where necessary, offer a formal apology. It will deal only with the subject matter of the complaint and will not disclose whether any disciplinary action has or is to take place in light of the complaint.

In any case where a complaint is entirely or partially substantiated the Chief Adjudicator or Chief Parking and Traffic Adjudicator will decide what further action, if any, needs to be taken regarding any Road User Charging appeal or with the Adjudicator who has been the subject of the complaint, including issuing guidance or advice to that Adjudicator.

Whatever action is taken will be recorded in the Adjudicator's personal file.



10. Disciplinary action

This is not a specific part of the Road User Charging Tribunal Judicial Complaints Procedure. If the Chief Adjudicator considers that disciplinary action is needed the Chief Adjudicator will follow the Road User Charging Tribunal Disciplinary Procedure.

11. Referring the case to the Office for Judicial Complaints

This is not a specific part of the Road User Charging Tribunal Complaints Procedure and therefore guidance on when and how to raise concern with the Office for Judicial Complaints should be sought either by contacting them at the address given below or by visiting their website.

12. Complaining to the Judicial Appointments and Conduct Ombudsman (JACO)

This is not a specific part of the Road User Charging Tribunal Complaints Procedure and therefore guidance on when and how to raise concern with JACO should be sought either by contacting them at the address given below or by visiting their website.

13. Time Targets

Any complaint about an Adjudicator's personal conduct should be made within 28 days of the behaviour occurring. Even though the time limit for complaints under the Judicial Conduct (Tribunals) Rules 2014 is 3 months, a shorter time is considered appropriate for this tribunal because of the bulk nature of its work and the potential infrequency of adjudicator sittings.

If a complaint is received more than 28 days after the behaviour is said to have occurred it will still be investigated but due regard will be had to the impact on individuals' memories.

If a complaint is received more than 84 days after the behaviour is said to have occurred it will not be investigated save in exceptional circumstances.

The fact that the complaint may contain an allegation of judicial misconduct is not in itself a sufficient reason for the Chief Adjudicator to extend the time limit.

The Chief Road User Charging Adjudicator will respond to the Complainant within 14 days of the complaint being received to confirm whether or not the complaint is accepted as valid and, if valid, with confirmation of the name of the Investigating Adjudicator.

The Investigating Adjudicator will then take over responsibility for the investigation of the complaint and will determine the appropriate steps for investigating the matter i.e. whether further detail will be sought from the complainant before informing the subject of the complaint about it or whether the Adjudicator complained about is notified immediately.

Whatever the sequence of events the Investigating Adjudicator will seek to resolve the complaint within 21 days of being tasked with determining the complaint.

If this is not possible the Investigating Adjudicator will write to the complainant and to the Adjudicator who is the subject of the complaint within 21 days and inform them of the revised timescale.

For long or complex investigations the Investigating Adjudicator will thereafter provide monthly updates as to progress of the investigation until the investigation is concluded.

A complainant or Adjudicator who disagrees with the decision of the Investigating Adjudicator will have a right of appeal to the Chief Road User Charging Adjudicator or, if the complaint relates to the Chief Road User Charging Adjudicator or they were the Investigating Adjudicator, to the Chief Parking and Traffic Adjudicator provided such appeal is made within 28 days of the date of the resolution letter.

Any request for review outside of 28 days may be refused to be considered.

If a request for review is received, and accepted to be dealt with by the reviewing Adjudicator, this will not amount to a new investigation.

The reviewing Adjudicator will determine whether or not the investigation process has been followed including whether an evidence based decision has been reached.

They will then provide, within 21 days of receipt of the accepted review request, confirmation either:

- (a) that they are satisfied that the process and procedure has been followed correctly and the decision reached is evidence based or
- (b) that the process or procedure has not been followed or the decision is not evidence based and will appoint another Investigating Adjudicator to carry out a fresh investigation.



14. A Complaints Database

The Chief Road User Charging Adjudicator wishes to monitor complaints made against Adjudicators and the efficiency of the processes for dealing with such complaints.

This information will be confidential and held in a file which will only be accessible to the Chief Road User Charging Adjudicator and those members of staff who require access to discharge their functions.

Individual Adjudicators will have access to their personal records only.

Useful addresses

Office for Judicial Complaints

10th Floor Tower 10.52

102 Petty France

London

SW1H 9AJ

Telephone: +44-(0) 203 334 2555

Fax: +44-(0) 203 334 2541

e-mail: customer@ojc.gsi.gov.uk

Website:

<http://judicialcomplaints.judiciary.gov.uk/>

Office of the Judicial Appointments and Conduct
Ombudsman

9.53, 9th Floor Tower

102 Petty France

London SW1H 9AJ

Website:

<http://www.justice.gov.uk/about/jaco.htm>





Postal Address: Road User Charging Adjudicators (RUCA), London Tribunals, PO Box 530, Sale, M33 0FP

Telephone: +44-(0) 207 520 7200 e-mail: queries@londontribunals.org.uk

Website: <http://londontribunals.gov.uk/>

Hearing Centre at: Chancery Exchange (Ground Floor), 10 Furnival Street, London EC4A 1YH