

# Road User Charging Adjudicators' Annual Report 2009-10



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for London

**Congestion  
charging**



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 Transport  
for London

**Low  
emission**

**ZONE**

## **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 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 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.



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## 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 2009-10.

Generally the year has been quiet and uneventful. The numbers of Congestion Charging appeals continued to drop and there were very few Low Emission Zone appeals.

On 1st October 2009, we held our annual conference. Training was provided by Alexandra Lewenstein and Louise Marriott from the Treasury Solicitor's on decision writing and a refresher course was given on the use of the computer in the tribunal. His Honour Judge Phillip Sycamore delivered an interesting talk on the role of local authority tribunals in the tribunal world.

There followed an interesting question and answer session.

The Adjudicators would like to thank Mark Smith from the Parking and Traffic Appeals Service (PATAS) for his help in organising the event.

Due to the current financial situation it has been decided to postpone this year's annual conference due on 7th October 2010. It is proposed that it would be more appropriate and a better use of public funds to do so when the next phase of the Low Emission Zone is due for introduction.

In June 2010, Martin Wood, the former Chief Adjudicator of the Parking and Traffic Adjudicators, resigned from the post after 10 years in office. Martin was involved in the initial planning of the Road User Charging Adjudicator tribunal and the training of the original twelve Adjudicators. His advice and support, particularly in the early days when the tribunal received 42,000 appeals instead of the projected 7,000 per annum were invaluable and contributed greatly to the tribunal's on-going success.

We thank Martin for his help and support and wish him all the best for the future.

This year also saw Kevin Austin at the Greater London Authority (GLA) move to another role in the GLA. Kevin was also a part of the initial planning team and continued to provide administrative support when required. We thank Kevin for his help and support and hope he enjoys his new role at the GLA.

Following the retirement of the Tribunal's secretary in 2009 and London Councils' bid for a new contract to provide the administrative and hearing centre service to the Road User Charging Adjudicators for five years from November 2009, it seemed an opportune time to review the PATAS staffing structure. This was done to ensure that, given the on-going and expected level of appeals to the Parking and Traffic and Road User Charging tribunals, we could achieve maximum flexibility and cost effectiveness.



This was achieved by allocating staff resources to service management and case management areas with individual staff splitting their time between the two tribunals. This highlighted the role of workflow reporting and management across the whole area of Adjudicator support. This strategy provides more variety for staff doing the work and enables resources to be allocated more effectively and flexibly according to the peaks and troughs of case volume across the two tribunals.

These changes have in no way affected the continuous good service we have always received and continue to receive from all of the administrative staff and without whose goodwill and support we could not adjudicate efficiently.

Since their introduction, the day to day operation of both the Congestion Charging Scheme (CCS) and the Low Emission Zone (LEZ) schemes had been delivered by Capita. On average Capita dealt with 3.5m customer calls, issued 1.5m Penalty Charge Notices and took payment for 15.7m CCS and LEZ charges every year.

In 2007, The London Road User Charging (LRUC) Project was launched by Transport for London (TfL) to re-tender the CCS and LEZ service contracts and transition systems and services from Capita to IBM. LRUC was an opportunity for TfL to:

- Implement systems that are flexible, scalable and separable in order to meet future mayoral policies and TfL requirements; and
- Improve customer service and reduce annual operating costs for the CCS and LEZ.

Rather than replicate existing systems and procedures, the project utilised TfL operational knowledge to clearly specify the project scope and requirements needed for IBM to deliver:

- Systems that were flexible and scalable to London's ever changing transport needs;
- New functionality to allow for online services and automatic charge payment of the CCS (CC Auto Pay). The latter has been the single most requested customer improvement since CCS was implemented and is due to be publicly launched in December 2010;
- A value for money separable solution that could allow for each element of the CCS and LEZ solution to be operated by separate service providers if required.

To achieve this IBM developed an innovative system solution that utilised existing IBM business solutions and technology to fully meet the needs and requirements of TfL.

On 2 November the LRUC project was successfully delivered on schedule. All key systems, payment channels and contact centres were operational. All Capita staff successfully transitioned to IBM and all critical data was migrated within the transition window. Most importantly the potential impact of service transition on the 'customer experience' was judged to be minimal.

Currently we await to see what will happen to the Western Extension and the effect on the current number of appeals. We also look forward to the introduction of the next phase of the Low Emission Zone where we expect to face new challenges.

Due to the fall in appeal numbers, Adjudicators have not been able to sit as regularly as they would prefer to do. We hope this situation improves in the next year.

Finally, I would like to thank all of the Adjudicators and the administrative staff for their contributions during the past year.

**Ingrid Persadsingh**  
**Chief Road User Charging Adjudicator**



## **THE ROAD USER CHARGING ADJUDICATORS**

at 1 April 2010

**Mercy Akman**

**Jane Anderson**

**Ian Coutts**

**Gordon Cropper**

**Jane Cryer**

**Leslie Cuthbert**

**Fiona Dickie**

**Joanna Dickens**

**George Dodd**

**Anthony Edie**

**Gillian Ekins**

**Anthony Engel**

**Andrew Harman**

**Angela Black Hedegard**

**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**

**Fiona Ryans**

**Timothy Smith**

**Alison Spicer**

**Jan Verman**

**Anwen Walker**

**Christopher Woolley**

## **REPORT UNDER ARTICLE 8 - ROAD USER CHARGING (ENFORCEMENT AND ADJUDICATION) (LONDON) (REGULATIONS) 2001**

The tribunal is now well settled in its new centre at the Angel Islington. Although some adjudicators have experienced problems with the building (some even having allergic reactions to the environment) I for one have found that the new centre is a great improvement on the old centre. Despite its prestigious location New Zealand House had become over time rather grubby and the facilities for both appellants and adjudicators somewhat tired. In contrast the new centre at the Angel offers much better facilities. The hearing rooms are larger, more airy and brighter. It has not proved appreciably more difficult to get to than New Zealand House (although as I travel from Paddington and generally attend on Saturdays it is somewhat of a challenge to negotiate the journey using the few tube lines in operation). There was some discussion about whether it was desirable to have the hearing centre within or outside the charging zone. While there are arguments on both sides I am sure it has avoided the irony of appellants arriving by car having to pay to enter the charging zone just in order to appeal their Penalty Charge Notices!

There has undoubtedly been a drop off in work towards the end of the year. This has meant that adjudicators now have to book (and be booked) for the available slots rather than coming in unannounced and settling down to do postal appeals. In this respect this tribunal has become again like all other tribunals where adjudicators and judges have to be allotted slots. It has also meant a greater focus on the appellant in person since most slots now are for hearing personal appeals. The appeals received in March did show a healthy uplift to the figure of 600 from abysmal lows in January and February. Looking back over previous annual reports a receipt figure of 600 is not altogether out of the ordinary - for instance in March 2006 the numbers received stood at 882. Overall the concerns over delay that applied in 2006 have been remedied - in 2005/6 there was an average 205 days delay in hearing appeals which certainly cannot be said today.

A highlight of the year for adjudicators was the annual training day on 1st October 2009 held at the Kingsway Hall Hotel. This proved to be an excellent venue for the talks and presentations - a memorable double (or triple) act from the in house team, a solid presentation from Treasury Solicitors on judicial reviews, and a provoking presentation on the new tribunal structure and the position of this tribunal in standing outside it. I got a lot from the day. As a tiny example I no longer use the acronym "TfL" in my determinations following the advice given by Tsols that such acronyms conveyed a sense of overfamiliarity with a party that does not go down well in the higher courts. In the same way the High Court has noticed (and has deprecated) the perhaps all too human tendency for tribunal adjudicators to offer unsolicited advice to appellants about and around the subject matter of the appeal - that is not our role and should be resisted.

Although it is difficult to detect trends in the work when coming in only once a month it is clear that the patterns have changed markedly over the last three years. There seem to be very few hire cases, most of which involve out of town and perhaps amateurish operations. The list (in my perception) now seems to be dominated by non-Londoners getting caught up in an unfamiliar environment. A change in mayoral policies and the introduction of new charging methods may see a further alteration in work patterns. LEZ cases are coming into the list now and although I have not yet had one I have all confidence in the yellow flow sheets to work my way through them.

This tribunal was my first introduction to judicial work and has proved the ideal introduction. Although I now also sit as an Immigration Judge and Deputy Coroner the training and experience which this tribunal has provided has proved invaluable. I look forward to sitting as a Congestion Charging adjudicator in 2010/2011.

Christopher Wooley

Road User Charging Adjudicator

# Useful information

## The structure of the Road User Charging Adjudicators' Tribunal

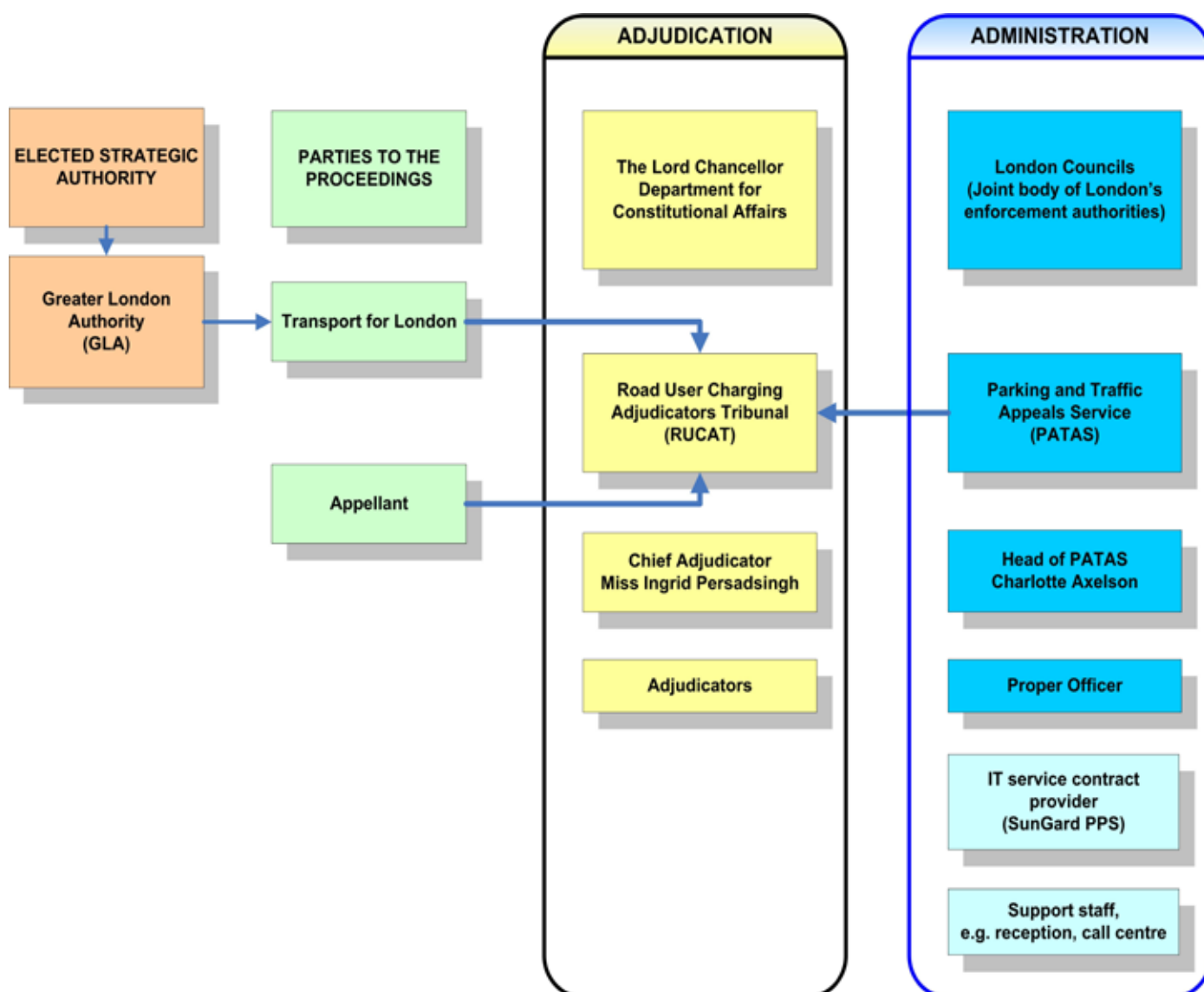
What is 'RUCAT'?

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.

What is PATAS?

PATAS is the Parking and Traffic Appeals Service and 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 PATAS





## The appeal process

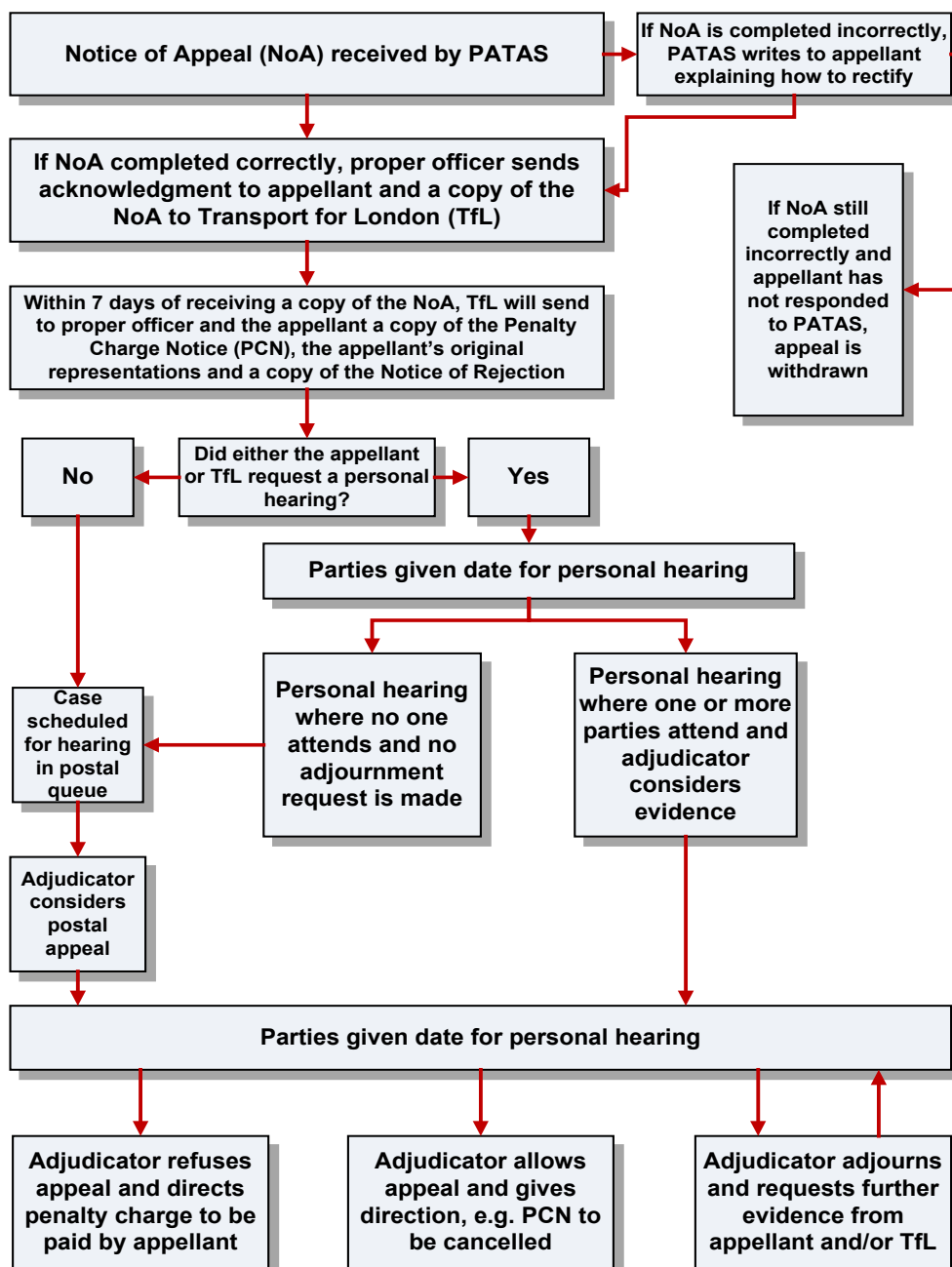
If Transport for London serves a Penalty Charge Notice arising from an alleged Congestion Charge or Low Emission Zone contravention, the registered keeper of the vehicle is entitled to contest the penalty charge by making written representations to Transport for London.

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 PATAS



## 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 produce 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.



## Matters of interest

The following issues have appeared in previous annual reports

	Year	Page(s)
Adjudicator's independence	2008-9	14
Angel, the tribunal's move in 2009	2008-9	18-22
Case delay statistics	2008-9	35
Chief adjudicator, role of	2008-9	15
Costs	2003-4	16-17
Decision, obtaining a copy of	2008-9	9
Emissions Related Congestion Charge	2006-7	19-20
Evidence produced by a prescribed device	2008-9	8
Fees charged against cases closed	2008-9	35
Grounds of Appeal described in detail	2008-9	26-29
Hire agreements	2003-4	7
Judicial reviews		
- R (on app. of Walmsley) v Transport for London & Others	2004-5	8
- R (ex.parte Graham) v Road User Charging Adjudicator	2004-5	9
- R (on app. of Dolatabadi) v Transport for London	2005-6	22-23
- R (on app. of Fivepounds.co.uk) v Transport for London	2005-6	24
- R (on app. of Grunwald) v Transport for London	2005-6	25
- R (on app. of Edwards) v Road User Charging Adjudicator	2005-6	26

Click on the image below to open the annual report for that year

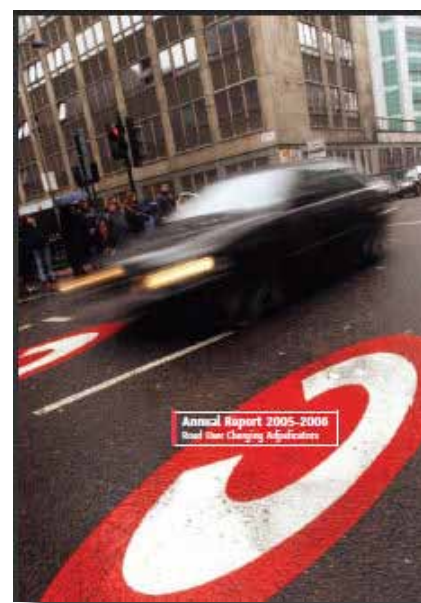
2003-4



2004-5



2005-6





	Year	Page(s)
- R (on app. of de Crittenden) v National Parking Adjudicator	2005-6	27
- R (on app. of Dufaur) v Transport for London	2006-7	24
- R (on app. of Jabang) v Transport for London & PATAS	2007-8	14
- R (on app. of Latter) v Transport for London & PATAS	2008-9	11
- R (on app. of Lilley) v Transport for London & PATAS	2008-9	11-12
Local Government Ombudsman	2008-9	16-17
Low Emission Zone - An introduction	2007-8	9-12
Photographic evidence	2004-5	12-13
Private hire vehicles	2004-5	12-13
Ranelagh Bridge	2006-7	12-16
Recording of call centre conversations	2006-7	17
Review of Adjudicator's decision	2003-4	15-16
Statutory declaration	2003-4	13
Statutory register	2006-7	18
Transcripts of hearings	2008-9	9
Validity of Penalty Charge Notices, challenges to	2006-7	9-11
Vehicle cloning	2004-5	10-11
Vehicles registered outside the UK	2004-5	11-12

**Click on the image below to open the annual report for that year**

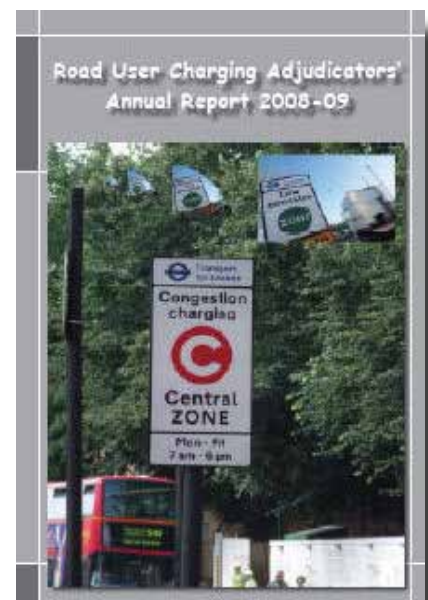
**2006-7**



**2007-8**

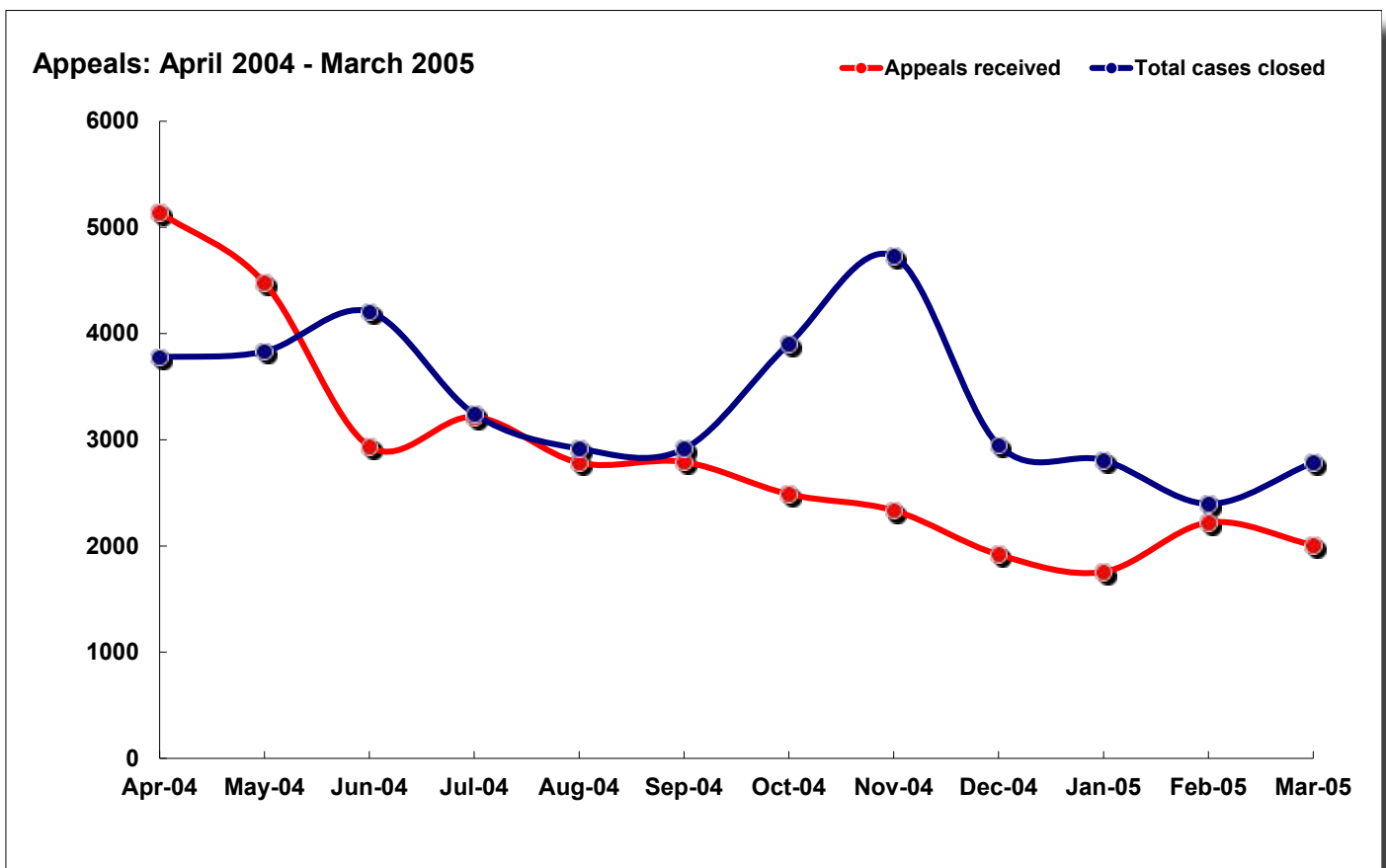
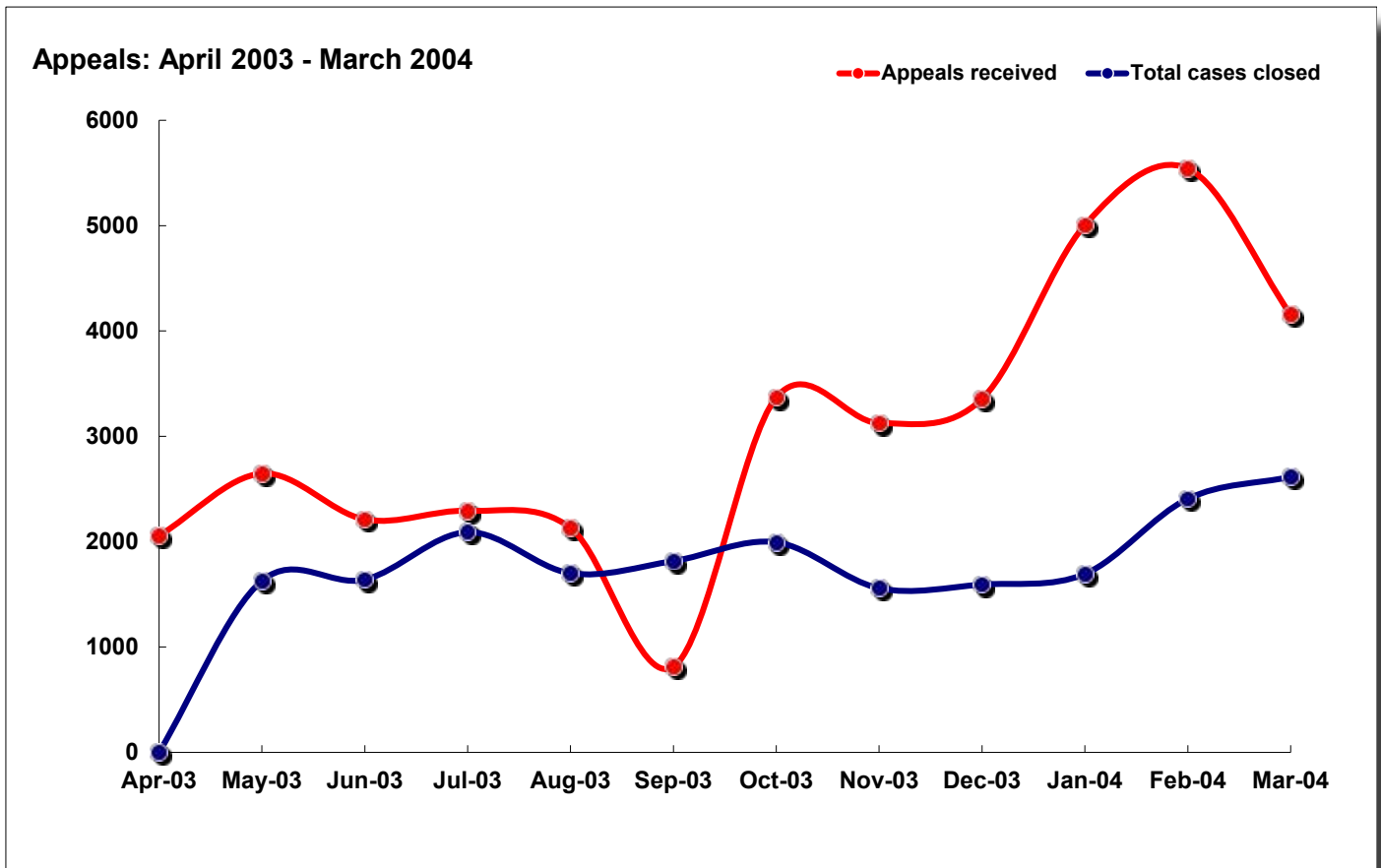


**2008-9**

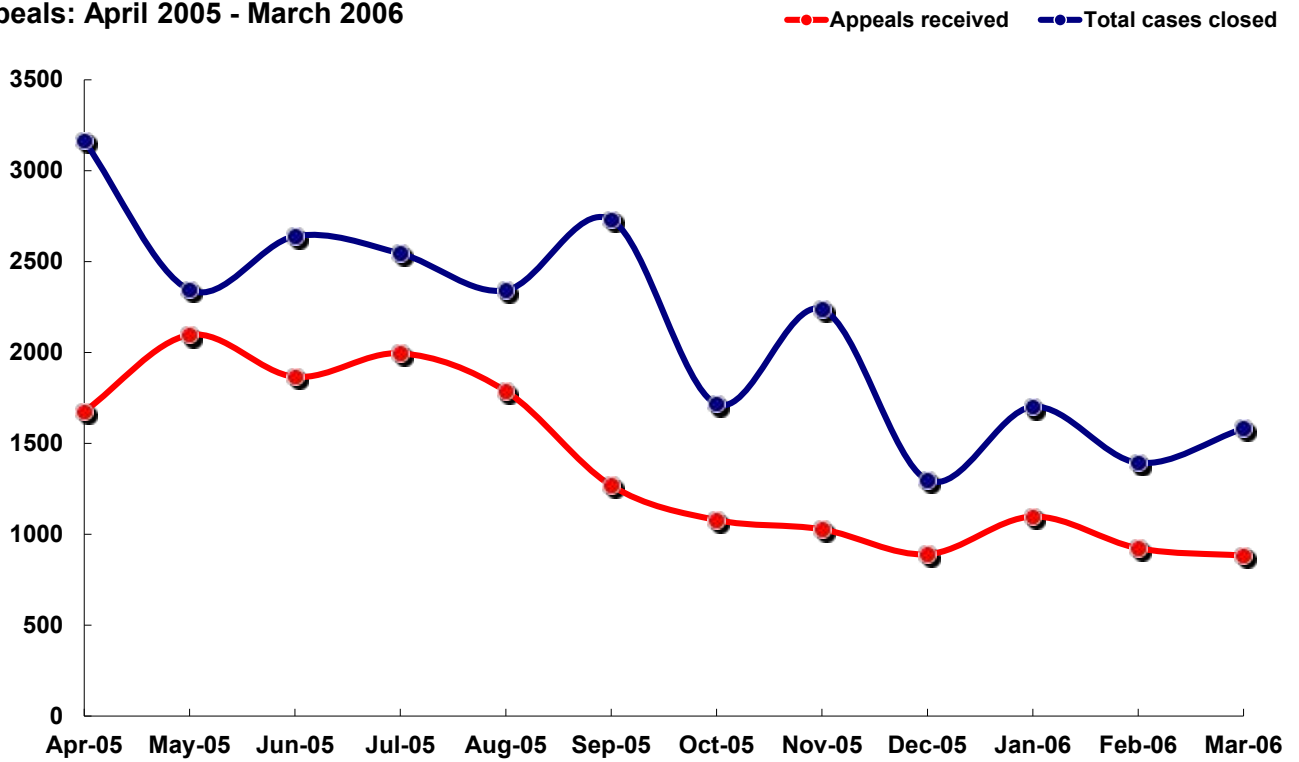


# ANNEX ONE

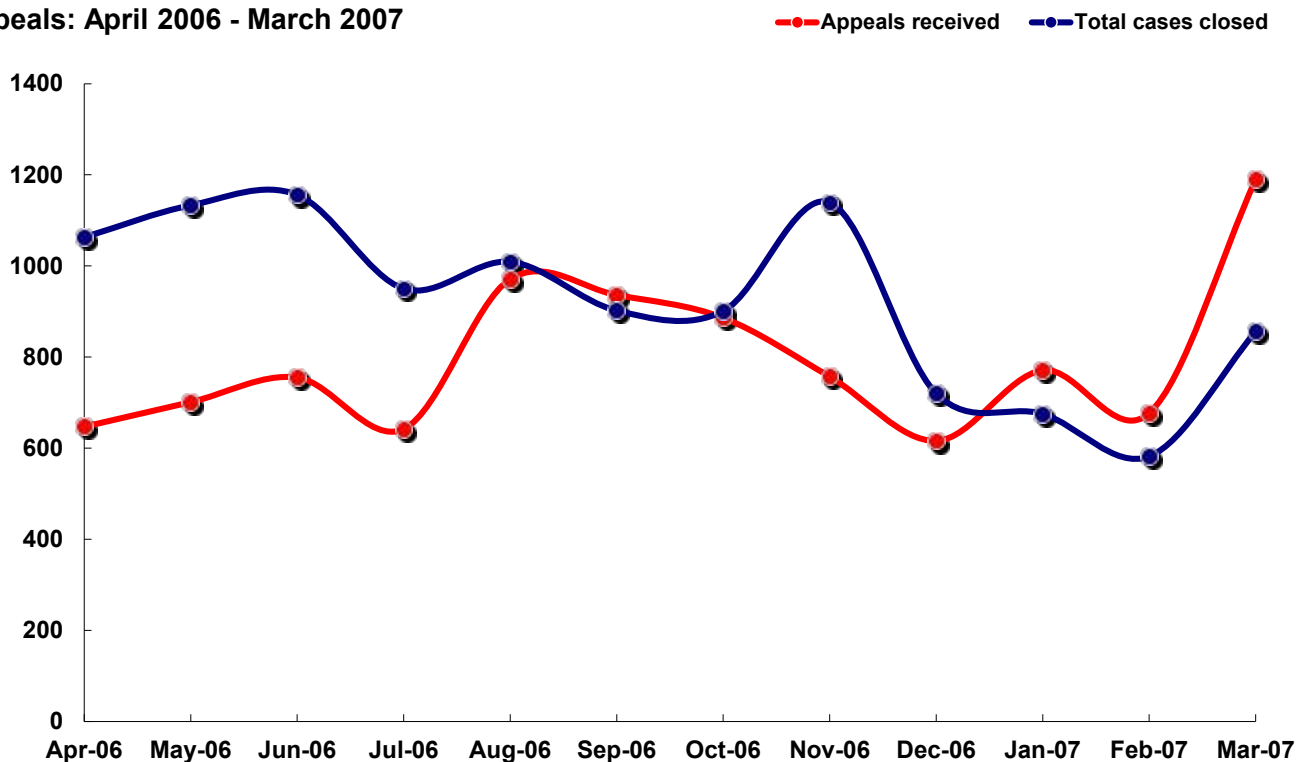
## Appeals April 2003 - March 2010



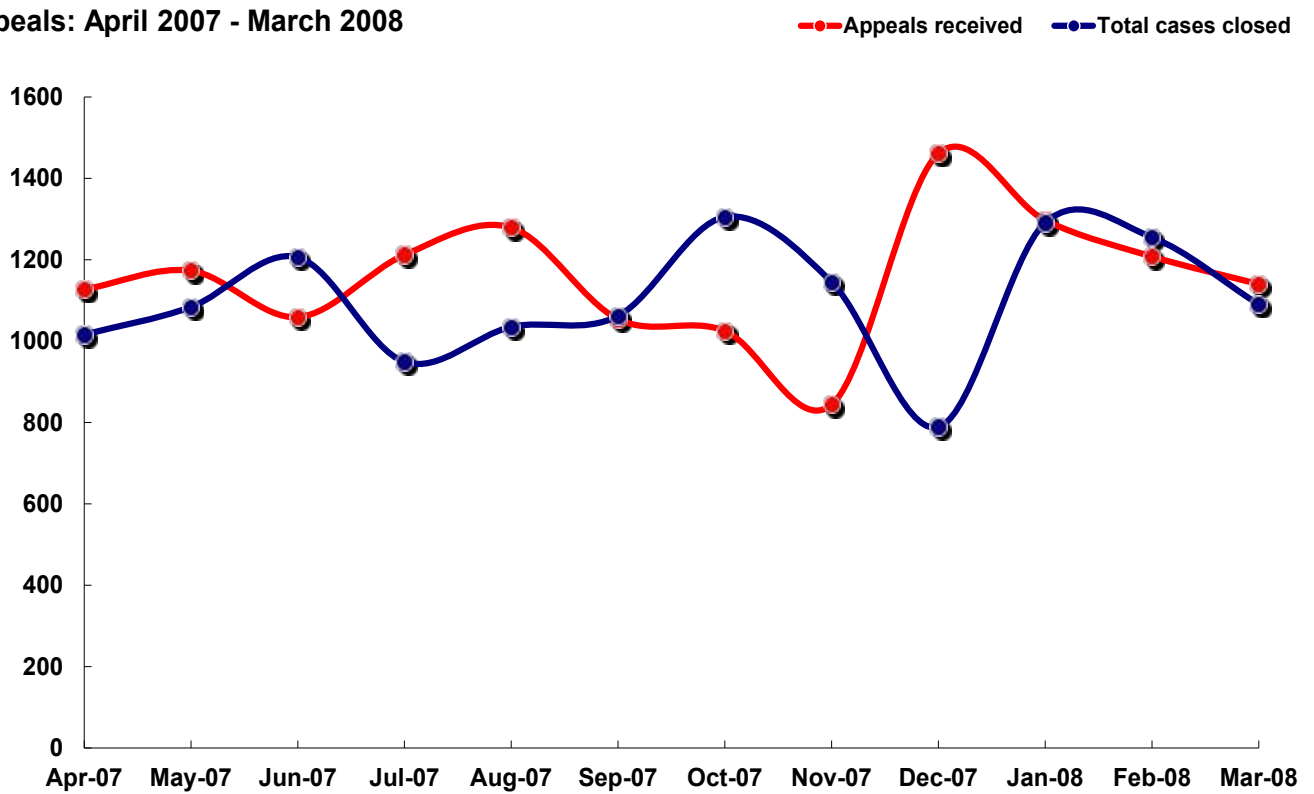
Appeals: April 2005 - March 2006



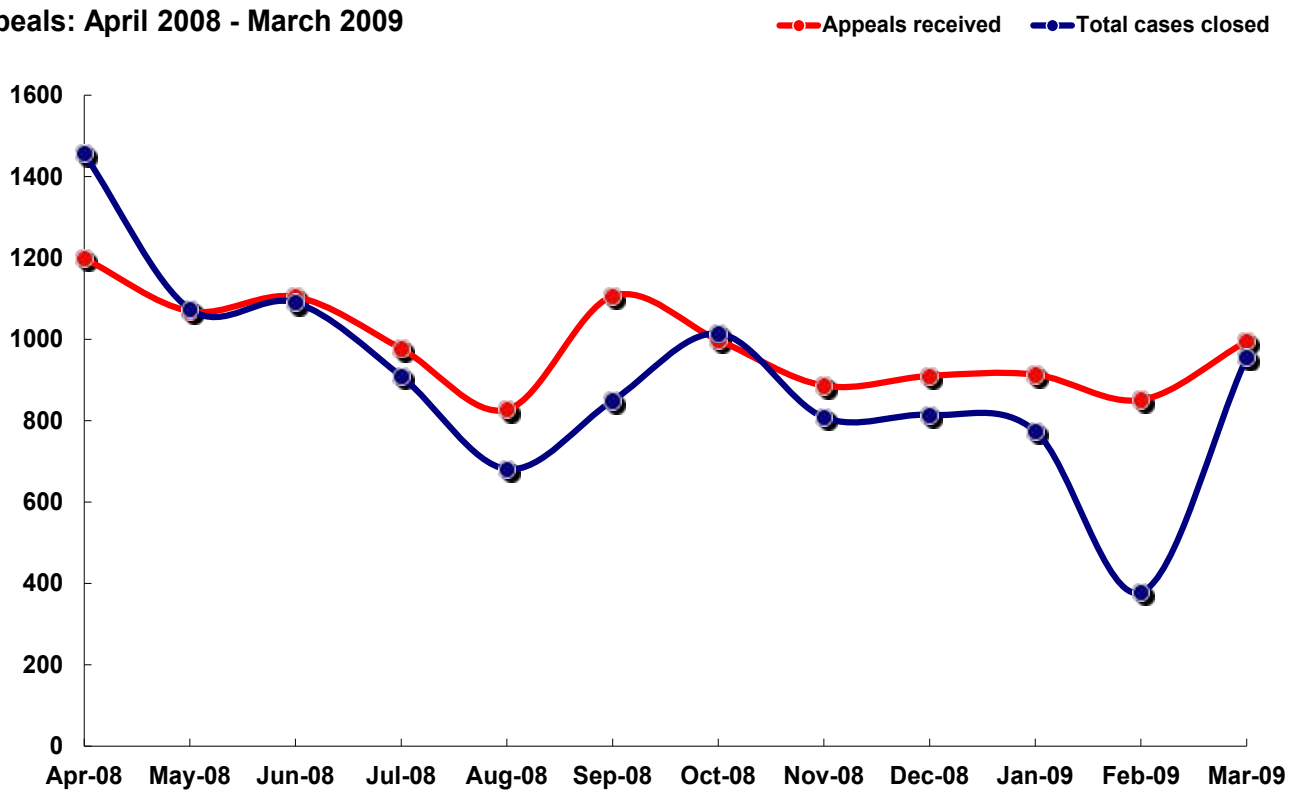
Appeals: April 2006 - March 2007



Appeals: April 2007 - March 2008

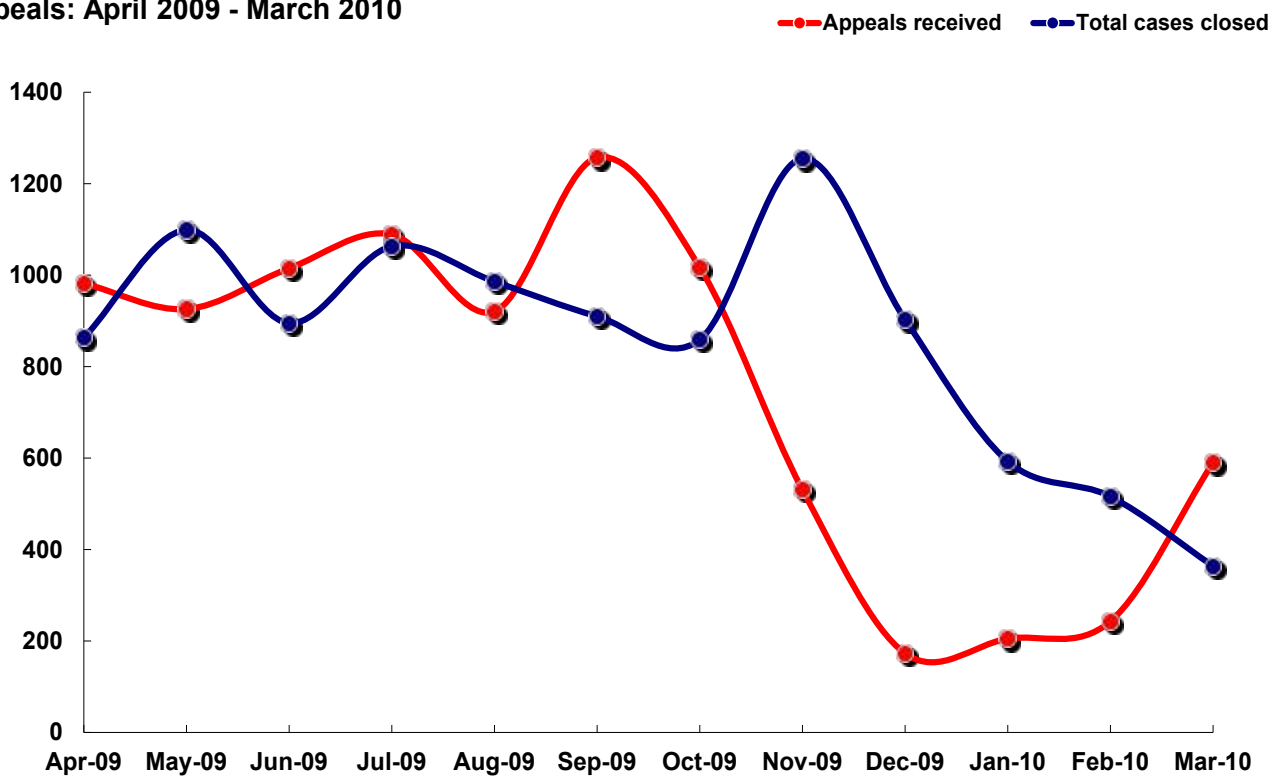


Appeals: April 2008 - March 2009





Appeals: April 2009 - March 2010



# ANNEX TWO

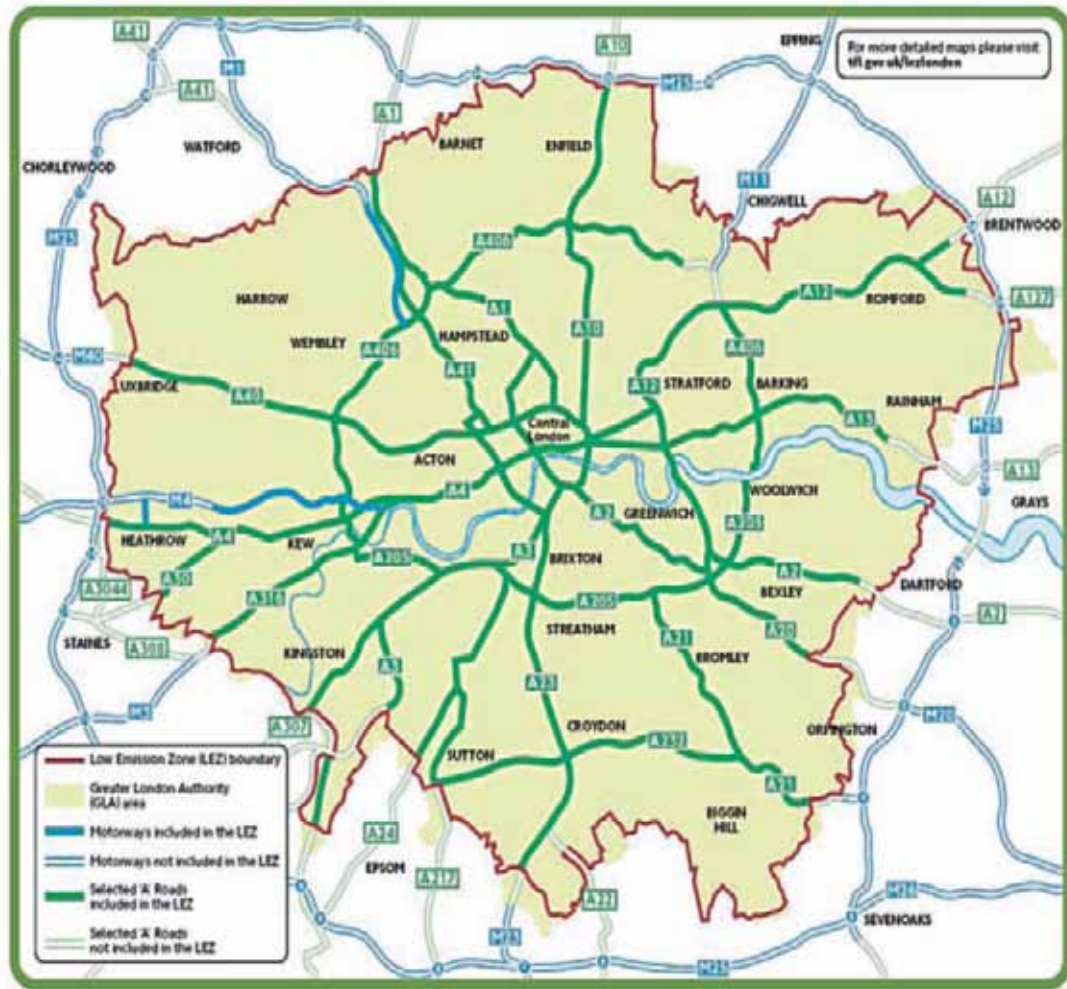
## Congestion Charging Appeals April 2003 - March 2010

	2003/4	2004/5	2005/6	2006/7	2007/8	2008/9	2009/10
Appeals received	42339	34065	16583	8054	13879	11835	8949
Statutory declarations received	n/a	n/a	n/a	1493	1593	1491	969
<b>Total cases closed</b>	<b>24288</b>	<b>52776</b>	<b>25115</b>	<b>10985</b>	<b>13227</b>	<b>10802</b>	<b>10345</b>
Appeals withdrawn by appellants	286	265	420	138	123	100	130
Appeals not contested by TfL	12922	13127	5084	2883	5571	4854	3963
Appeals refused postal (incl. withdrawals)	4839	17699	13870	6179	5832	4605	5279
Appeals allowed postal (incl. not contested)	13537	14811	7121	3200	4584	4096	3302
Appeals refused personal (incl. withdrawals)	745	1558	1436	505	758	663	526
Appeals allowed personal (incl. not contested)	4508	4988	2522	1060	2034	1436	1237
Closed administratively	659	328	166	41	19	2	1
Appeals adjourned	1518	6085	3399	1608	836	706	636
Review decisions	121	349	743	181	136	113	101
Costs decisions	10	140	153	12	17	15	14
Postal cases ready for adjudication at end of year	9383	7528	2004	306	340	306	n/a
Personal hearings scheduled	5657	6989	4282	1614	1836	1453	1130
<b>% withdrawn by appellants</b>	<b>1.18%</b>	<b>0.50%</b>	<b>1.75%</b>	<b>1.14%</b>	<b>0.93%</b>	<b>0.93%</b>	<b>1.26%</b>
<b>% not contested by TfL</b>	<b>53.20%</b>	<b>24.87%</b>	<b>20.13%</b>	<b>27.28%</b>	<b>42.12%</b>	<b>44.94%</b>	<b>38.31%</b>
<b>% refused postal</b>	<b>19.92%</b>	<b>33.54%</b>	<b>55.31%</b>	<b>54.95%</b>	<b>44.09%</b>	<b>42.63%</b>	<b>51.30%</b>
<b>% allowed postal</b>	<b>55.74%</b>	<b>28.06%</b>	<b>27.38%</b>	<b>30.01%</b>	<b>34.66%</b>	<b>37.92%</b>	<b>31.92%</b>
<b>% refused personal</b>	<b>3.07%</b>	<b>2.95%</b>	<b>5.51%</b>	<b>4.50%</b>	<b>5.73%</b>	<b>6.14%</b>	<b>5.08%</b>
<b>% allowed personal</b>	<b>18.56%</b>	<b>9.45%</b>	<b>9.65%</b>	<b>10.24%</b>	<b>15.38%</b>	<b>13.29%</b>	<b>11.96%</b>
<b>% closed administratively</b>	<b>2.71%</b>	<b>0.62%</b>	<b>0.64%</b>	<b>0.36%</b>	<b>0.14%</b>	<b>0.02%</b>	<b>0.01%</b>
<b>% of cases allowed</b>	<b>74.30%</b>	<b>37.52%</b>	<b>57.16%</b>	<b>40.25%</b>	<b>50.03%</b>	<b>51.21%</b>	<b>43.88%</b>
Average postal hearing (mins)	20.30	22.66	35.96	43.79	53.91	51.75	43.2
Average personal hearing (mins)	22.99	35.15	50.72	60.13	77.86	65.96	61.72
% of cases 1st considered within 56 days	24.37%	34.88%	34.47%	49.36%	84.43%	61.81%	43.99%
Average days delay*	88	212	205	80		n/a	n/a
% hearings commenced within 15 mins	75.92%	84.17%	69.13%	76.42%	74.83%	76.27%	70%
<b>Summary of decisions by ground of appeal (allowed)</b>	<b>2003/4</b>	<b>2004/5</b>	<b>2005/6</b>	<b>2006/7</b>	<b>2007/8</b>	<b>2008/9</b>	<b>2009/10</b>
Appellant not registered keeper	440	995	307	131	96	59	70
Charge has already been paid	1902	3014	1194	387	328	146	135
No charge is payable under the scheme	2284	2359	1472	518	487	356	317
Vehicle hire firm	255	798	1026	174	71	124	43
Penalty exceeded relevant amount	175	520	374	180	52	34	39
Vehicle used without appellant's consent	28	42	48	56	40	30	28
<b>Summary of decisions by ground of appeal (refused)</b>	<b>2003/4</b>	<b>2004/5</b>	<b>2005/6</b>	<b>2006/7</b>	<b>2007/8</b>	<b>2008/9</b>	<b>2009/10</b>
Appellant not registered keeper	346	1421	405	389	409	292	232
Charge has already been paid	1495	4463	2036	1148	1229	990	1045
No charge is payable under the scheme	1787	5288	3679	2354	2609	2105	2493
Vehicle hire firm	1619	6840	9326	1899	1202	850	897
Penalty exceeded relevant amount	415	1270	1062	1064	1163	804	987
Vehicle used without appellant's consent	42	159	193	113	176	97	128



# ANNEX THREE

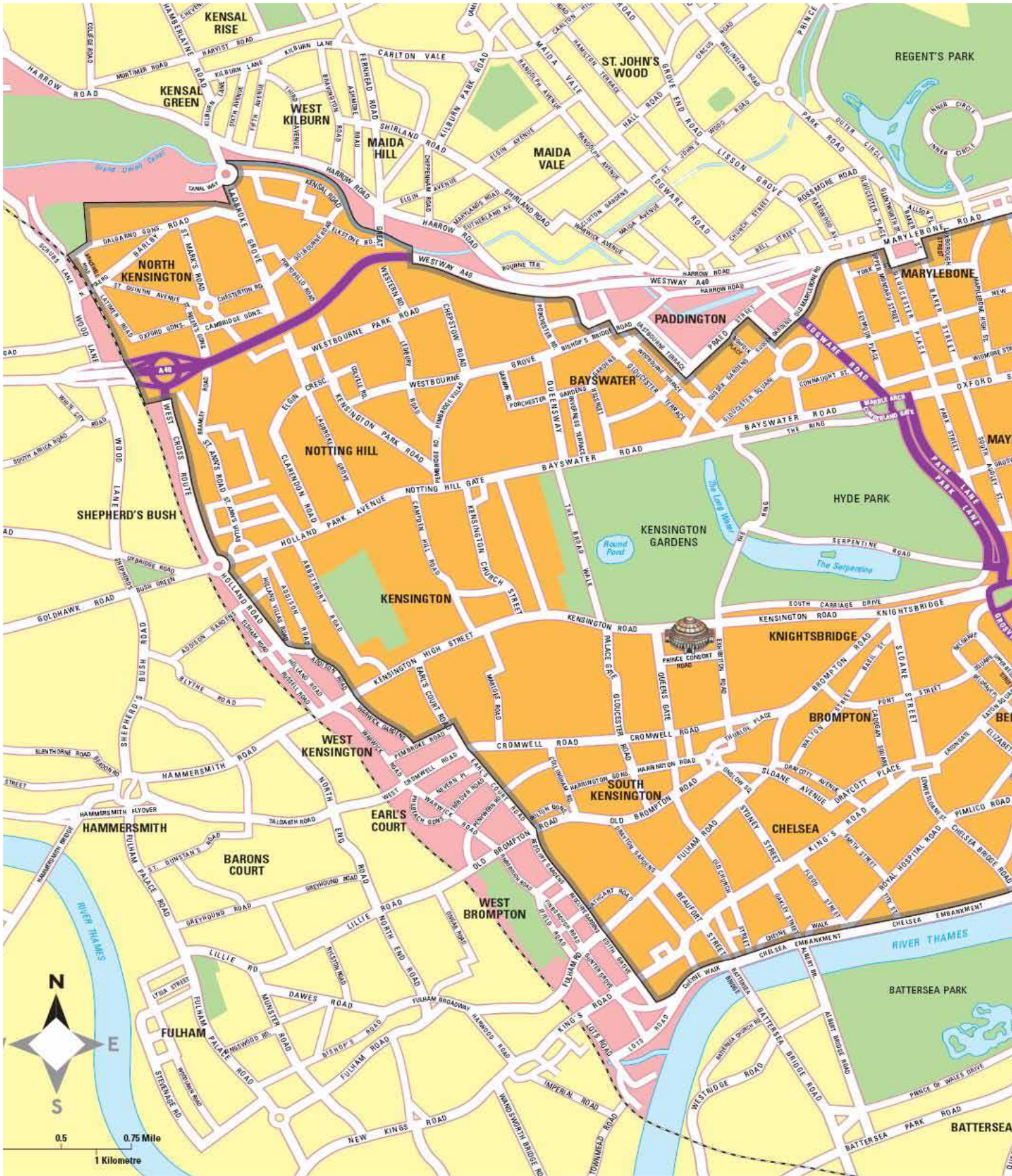
## Low Emission Zone



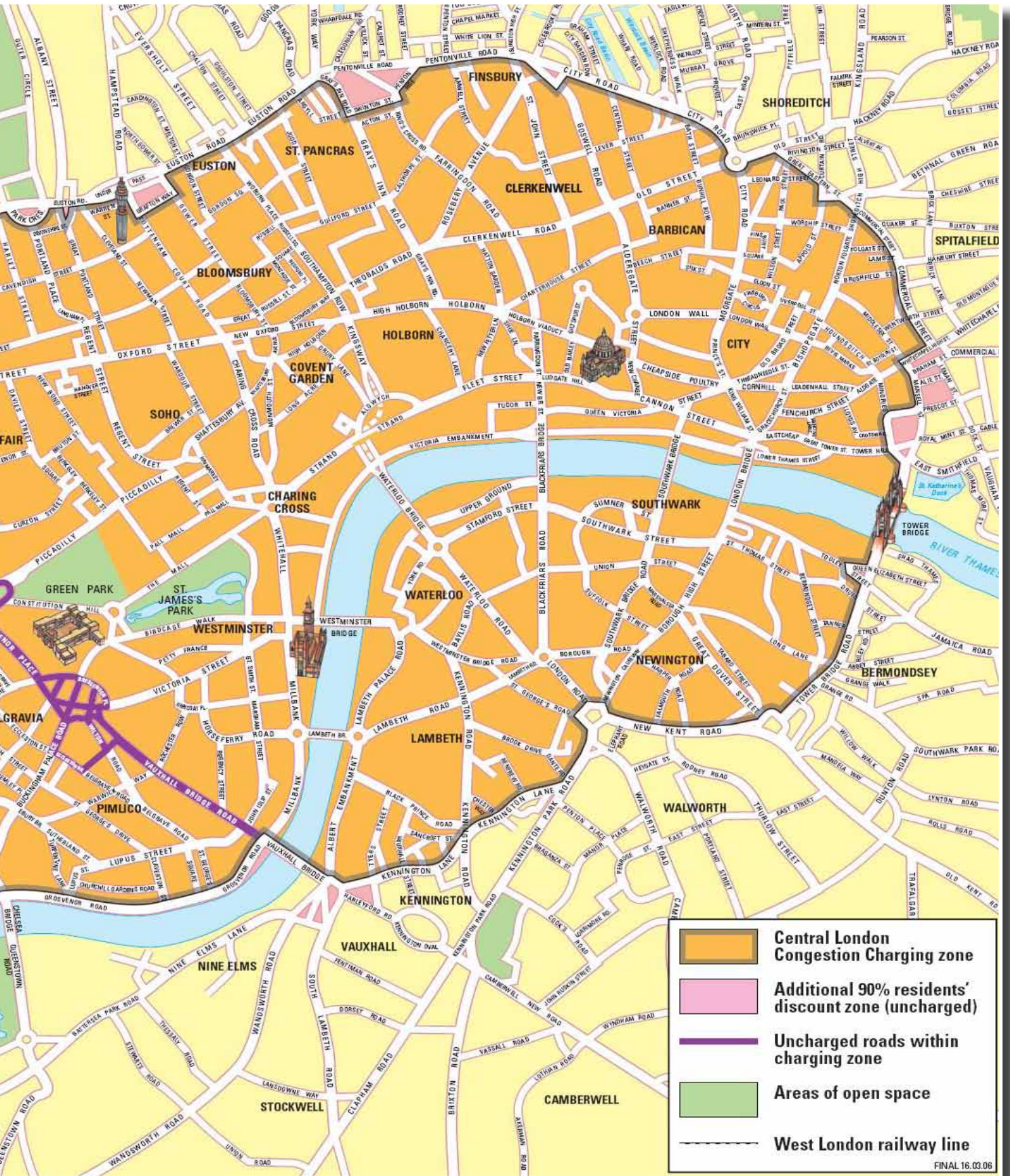


# ANNEX THREE

## Congestion Charging Area









**Annual Report 2009-10**  
**Road User Charging Adjudicators**

**Parking and Traffic Appeals Service**  
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**Block 2**  
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**EC1V 1NY**

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**Fax: 01932 578493**  
**Minicom: 020 7520 7205**  
**DX: DX 155080 Chertsey 7**  
**Web site: [www.patas.gov.uk](http://www.patas.gov.uk)**



*Courtyard at Angel Square*